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HISTORY

OF THE

REPUBLIC

OF THE

UNITED STATES OF AMERICA,

AS TRACED IN THE WRITINGS OF

ALEXANDER HAMILTON

AND

35552

OF HIS COTEMPORARIES. ac

BY

JOHN C. HAMILTON.

VOLUME V.

"Neque enim est ulla res, in qua propius ad Deorum numen virtus accedat humana quam civitates aut condere novas, aut conservare jam conditas."—*Cic. de Repub.*

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SECOND EDITION.

PHILADELPHIA:
J. B. LIPPINCOTT & CO.
1864.

973
Ham/H13
35552

ENTERED, according to Act of Congress, in the year 1859, by
JOHN C. HAMILTON,
In the Clerk's Office of the District Court of the Southern District of New York.

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THE HISTORY

OF THE

REPUBLIC OF THE UNITED STATES.

CHAPTER LXXVII.

The speech of the President, at the opening of the Session which followed the arrival of these Envoys, was silent as to the foreign relations of the United States.

No change having occurred in these relations, since the reference to the Secretary of State; and those envoys having presented no new matter for consideration, it was deemed expedient, and more to comport with the dignity of the Government, to await such overtures as they might be instructed to make.

This becoming delay wore upon Jefferson. Affecting extensive knowledge on a great variety of subjects, the Secretary of State especially valued himself upon his diplomatic skill, in his view, not far removed from craft. If error were possible to him in other matters, as to this he felt he could not be mistaken. His long ambassadorial career, wholly fruitless as it had proved, had not shaken his self-confidence. To doubt his unrivalled ability in negotiation would be an amazing hardihood. So he thought of himself, and so he encouraged his partisans to

think. "I will lay the British lion crouching at my feet," was his most assured, if not uttered conviction.

If it shall appear, that his labors, as Secretary of State, were as profitless to his country, as had been those of his embassies, it may be inferred, that again he was mistaken as to his fitness for the place he had been called to fill.

A brief interval elapsed. Jefferson keen to his purpose, then submitted to the President inquiries as to the course he should pursue—First, Whether a treaty *ad referendum* should be proposed to the French ambassador, on the footing of *natives*, excluding the citizens of each country from such offices as their respective constitutions forbade their admission to; or one detailed according to a tariff; and whether the Senate were to be consulted at the beginning, middle or close of the negotiation? Second, Whether the British minister should be now asked as to his having received instructions as to the definitive treaty; and whether he was authorized to conclude or negotiate any commercial arrangement?

The different forms which these questions assumed grew out of the policy this officer intended to pursue.

The National Assembly of France had recommended, that a treaty of commerce should be negotiated with this country, but had not repealed her obnoxious decrees; nor had it given any instructions to Ternant on this subject. Of him, Jefferson made no inquiry on either of these points, he only stated a readiness to enter into a negotiation.* An opposite course was taken with the British minister.

* Jefferson's Works, iii. 192. Oct. 16, 1792. Ere a month elapsed he wrote to G. Morris, "*I think* they should be told, as soon as they are in a condition to act, that if they do not revoke the late innovations, we must lay additional and equivalent burthens on *French* ships by name."—Jeff. Works, iii. 197. To G. Morris, Nov. 7, 1792

By an individual only desirous to promote the welfare of his country, and who felt the importance of removing the obstacles which had prevented an amicable arrangement with Great Britain, the obvious line of conduct was to meet her overture in a frank spirit of conciliation —to endeavor to ascertain how far the interests of the two nations conflicted, and what mutual concessions could be made; aware of the difficulties, which had grown out of the non-execution of the treaty of peace, to have weighed with deliberation the rights of both parties; and knowing that, on each side, there had been infractions of it, while claiming performance from Great Britain, to have admitted the default of the United States; and keeping out of view as far as was practicable, every topic of irritation, to have evinced a readiness to correct what there had been of wrong on the part of America, while insisting upon what was due from England.

Assuming this as a test of the proper conduct of this negotiation, it will be seen how far the Secretary of State pursued this course.

His first recorded communication* to the British Envoy opened with a reference to the seventh article of the treaty, which contained the stipulations for the restoration of the posts and compensation for property removed or destroyed; remarked, that it was unnecessary to observe to him that it still remained "in a state of inexecution," and demanded whether he was instructed to give explanations of the intentions of his Court as to the execution of this article.

With respect to the commerce of the two countries, he stated, "we have supposed that we saw, in several instances, regulations on the part of your government,

* November 29, 1791.

which, if reciprocally adopted, would materially injure the interests of both nations."

He then put the question, whether he was authorized "to *conclude* or to negotiate" a treaty of commerce? It is to be noted, that it appears from subsequent letters of Hammond, that Jefferson had been previously informed by him verbally, that he had no special commission to "*conclude*" any definitive commercial arrangement.

The British minister replied the next day, observing that the suspension of the execution on the part of Great Britain of the seventh article had resulted from a non-compliance on the part of the United States with their stipulations—that these objects were so materially connected with each other as "not to admit of separation" in the mode of discussing, or in the arrangement of them —that he was instructed to enter into the discussion of all such measures as may be deemed the most practicable and reasonable for giving effect to the stipulations on both sides.—As to a treaty of Commerce, he stated, that the King was sincerely disposed "to facilitate the commercial intercourse" of the two countries, and that he was ready to enter into a negotiation for that purpose, "upon principles of reciprocal benefit."

On the fifth of December, a letter was addressed to him by Jefferson, inquiring whether he understood him correctly in considering him, as having said, "that he was not furnished with any commission or express powers to arrange a treaty, or to make any specific propositions on the subject of Commerce; but only to assure us, that Great Britain was ready to concur with us in appointing persons, times and places for commencing such a negotiation."

The answer of the following day indicates the impression produced on the mind of the British Envoy by the course which had been taken. He stated, that although,

"not *as yet* empowered to conclude any definitive arrangement as to Commerce, that "he was fully authorized to *enter* into a negotiation for that purpose on a basis of reciprocal advantage."

Six days after, on the twelfth of December, without any urgent motive or decent warrant for so doing, he enclosed to Hammond an extract of a letter, the writer's name not stated, giving information of a person having "lately come from England into the Creek country to excite that nation of Indians to war against the United States, and pretending to be employed by the government of England." Disavowing his belief in its approval "of this incendiary and impostor," he asks him to take such notice of the case as he should deem proper.

Having cast this insult, Jefferson again addressed him the following day. In this note he adheres to the difficulty he had at first interposed.

Although informed by Hammond in two successive letters and in conversation, that he had not power to *conclude* a treaty, he wrote him, "I am ready to receive a communication of your *full* powers for *that purpose* at any time you shall think proper, and to proceed immediately to their object."

The reply of Hammond, the next day, repeated his former statement, that he had no special powers "to *conclude* any *definitive* arrangement as to Commerce, but that he conceived himself fully competent from his instructions and from his Commission, as Minister Plenipotentiary, which had been recognized by the President, to enter into a negotiation for that purpose, in the discussion of the principles which may serve as the basis, and constitute the stipulations of any such definitive arrangement."*

* Jefferson's Works, iv. 400. In the "Anas" of Jefferson, the absurd statement is made, that the want of power to conclude a treaty of Commerce,

Upon this reply Jefferson rested. Though Hammond's powers were alike limited to the mere *discussion* of the mode of fulfilling the definitive treaty and the terms of a treaty of Commerce, the Secretary of State did

was *pretended* by Hammond at *Hamilton's suggestion.* Yet the teeming charge is kept up by Jefferson that Hamilton coveted too intimate relations with England. It is also there stated, iv. 460, that to prevent a treaty of Commerce with France, Hamilton prepared a tariff, "raising duties for the French from twenty-five to fifty per cent! So, they were to give us the privilege of native subjects, and we as a compensation were to make them pay higher duties!" It has been seen, that Hamilton had expressly stated to Jefferson, in an official letter, "I had rather endeavor by a *new treaty* of commerce with France, to extend *reciprocal* advantages, and fix them on a *permanent* basis." Hamilton's Works, iv. 98, January 13, 1791. Jefferson in his "Anas" represents this procedure, imputed by him to Hamilton, as having taken place in November 1791, six months after the date of this letter. It is recorded by Jefferson as being "committed to writing, March the 11th, 1792."

By the first impost act, July 24, 1789, the duty imposed on all wines, except London particular, was *ten* cents per gallon.

By the act 24th August, 1790—the second impost act—excepting Madeiras and Sherries—the duty on all wines was *twenty* cents per gallon, an increase wisely laid for the supply of the Treasury. From that time to the date when this statement of Jefferson is alleged to have been committed to writing, *no* proposition was made by Hamilton on the subject. But on the 17th March, 1792, two months *after* the alleged facts, and a week *after* the date of the said commitment to writing, Hamilton, in a report to the House, on the best mode of raising "additional supplies" to meet the frontier War, proposed that all wines (with certain exceptions) which included French wines, pay an *ad valorem duty* of *forty per cent.*" Thus the statement in the Anas wholly fails. The reason assigned by Hamilton for this increase was, "Wines, generally speaking, are the luxury of classes of the Community who can afford to pay a considerable duty on them." Of the duties on low priced wines, as being in more general use, he advised "*a reduction,*" and on the 28th April, 1792, Jefferson wrote the American envoy at Paris:—"In a bill which has passed the House of Representatives for raising monies for the support of the Indian war, while the duties on every other species of wine are raised from one to three-fourths more than they were, the *best wines of France will pay little more than the worst of any other country,* to wit, between six and seven cents a bottle; and

not take a single step toward a commercial arrangement. His answer of the fifteenth, the day after Hammond's letter, was confined to a formal assignment of the breaches of the treaty of peace on the part of Great Britain, and to a demand of a "*specification*" of the particular acts of non-compliance "on the part of the United States which had induced a suspension of the execution by England of its seventh article, and rendered a separate consideration of them inadmissible."

Taking into view the whole of this correspondence, it would be difficult to have devised a more certain expedient for keeping open the existing difficulties, than that adopted:—first by declining, upon mere forms, to enter upon a negotiation for a new treaty;—and then, by commencing a formal antagonist discussion of all the long-subsisting controversies of the Revolution, laying a mine under the ground selected for negotiation. Desirable as it was to avoid this course, no alternative remained to England, but to meet the charges, and to insist upon the injuries received. Thus a hostile attitude was compelled, and every advance to a negotiation precluded.

England had commissioned a Minister to promote a reciprocal commercial system. She was met on the threshold, by an arraignment of her integrity at the bar of the nation she had expressed a desire to meet as a friend. While the President had felt it his duty to urge Great Britain to the execution of the definitive treaty of peace, he was too well aware of the importance of satisfactory commercial arrangements with her, not to desire them. This

where this exceeds forty per cent. on their cost, they will pay but the forty per cent. I consider this latter provision as likely to introduce in abundance the cheaper wines of France, and the more so, as the tax on ardent spirits is considerably raised." He speaks of these as "manifestations of friendly dispositions." Randall, ii. 254, gives the misstatement of Jefferson as *history*.

had prompted the overture through Morris. The policy of Jefferson is seen to have been to keep "alive an altercation" with that power. So indirect a course Hamilton had explicitly condemned; and the honest dignity of Washington would forbid. Jefferson therefore resolved, as he had before done, to give the President's mind a false direction, by a false statement of important facts, necessary to a correct conclusion.

The British Government might enlarge the powers of its Minister, so as to remove every barrier to a treaty of commerce; and such treaty would be most effectually prevented by obtaining the President's sanction to Jefferson's contemplated policy in the pending correspondence with the British Envoy. With this view, eight days after his last note, to Hammond, on the twenty-third of December ninety-one, he submitted to the President a table, purporting to represent the "Footing of the Commerce of the United States with France, and England, and with the French and English American Colonies."

Deceptive as this table was subsequently proven to be, it was intended by him to govern the policy of this Republic with those countries.

Distrustful of Jefferson's representation, and with a view to place before the Nation a true state of facts, Hamilton immediately commenced the preparation of a comparative statement of the trade between the United States and France, and also, of that with Great Britain.

He apprised Jefferson of this purpose in a formal note; stating his desire to render it "as candid as possible," and asked him, "to point out to him the instances in which the regulations of France" had "made discriminations in favor of the United States as compared with other foreign powers."* No reply to this request has been ascertained.

* January 1, 1792.

After the delay, as stated by Hammond, necessary to collect throughout the United States the evidence as to all the causes of complaint on the part of England, he, on the fifth of March seventeen hundred and ninety-two, gave in his specification, embracing the cases of the confiscation of Loyalist property;—the delay to restore their estates;—the banishment of their persons by Legislative acts; and the obstruction of the recovery of debts due to British subjects. Jefferson answered on the twenty-ninth of May.

His reply commenced with a reproof of the British Envoy for having referred to cases which occurred before the treaty, and with a brief, but sharp, contrast of the conduct of the two nations.

As a ground for so doing, he adverted to the well-established principle, that "the state" in which "the treaty" found things, "is to be considered as rightful," and that no alterations were to be claimed on either side, but those for which the treaty provided.

He next observed, that although a treaty binds the contracting parties from the moment it is concluded, it binds the "subjects" only from the time it is notified to them,—drawing the conclusion that "all acts of the STATES, preceding the date when an official copy of the treaty was received, are out of the discussion."

As to the first ground of complaint, the exile of British adherents and confiscation of their property,—he said, that the fifth article was merely recommendatory, and so understood to be by the British Government;—and that Congress had fulfilled its part of this engagement by a recommendatory proclamation to the States.

He then considered the article as to debts due to British subjects. To justify the non-payment of these debts, he referred to the *previous* infractions of the treaty, in the

deportation of the negroes, and the withholding the Posts; remarking that the Acts suspending the collection of the debts were passed by the STATES, of whom Virginia was the first, as retaliatory proceedings; and that the Courts which decided against the validity of those debts were inferior tribunals. This was followed by what he termed a special apology for each mode of infraction; by delay of judgment—tender laws, and payments in paper money*—observing that during these proceedings of the several States, Congress had abstained from every public declaration, and confined itself to its recommendatory resolution of seventeen hundred and eighty-three, and to repeated efforts to induce a compliance by Great Britain.

Tracing the course of events, he pointed to the resolution recommending a formal repeal of all laws repugnant to the treaty, "which," he observed, "was complied with

* Jefferson wrote Madison, June, 1, 1792. Washington "approved of the letter (to Hammond) remaining as it was, particularly in the article of debts, which, he thought a subject of *justification*, and not merely of *extenuation*."

Washington wrote 17th August, 1779—"The fear of injuring, by any example of mine, the credit of our paper currency, if I attempted to discriminate between the real and nominal value of paper money, has already sunk for me a large sum, if the bonds before mentioned are paid off; the advantage taken in doing which no man of honor or common honesty can reconcile to his own feelings or conscience, not as respects me, do I mean, but *transactions of their kind* generally." Washington's Writings, vi. 322.

So strong was the public sentiment on this subject, that the only ascertained instance of *degradation* by the Society of Cincinnati is that "of a member from Rhode Island, who was divested of his ribbon for making a legal tender of the depreciated paper currency in payment of a debt."—"Contributions to American History"—The Cincinnati, by Alexander Johnston.

"Among many good qualities which my countrymen possess," Jefferson wrote, "some of a different character unhappily mix themselves. The most remarkable are, indolence, extravagance, and infidelity to their engagements."—Jefferson to Donald, ii. 192. Jefferson's Works.

so fully, that no such laws remained in any State of the Union, except one, which would have been foreborne had any symptoms of compliance by Great Britain rendered a reiterated requisition from Congress, important." "The requiring such a repeal was only to take away a pretext —for it was at all times perfectly understood—that the Confederation having made them obligatory on the whole Union, treaties controlled the laws of the States," Congress having so declared and demonstrated them;—the Legislatures and Executives of *most* of the States having admitted it, and the Judiciaries, both of the separate and general Governments *so deciding*,"—adding, that the British creditors have, for some time, been in the habit and course of recovering their debts at law. Having defended the non-payment of interest, he concluded with the allegations: *First*, that there was no absolute stipulation to restore *antecedent*, confiscations, and that none *subsequent* took place;—*Second*, that the recovery of the debts was obstructed *validly* in none of our States—invalidly only in a few; and that, not till *long after* the infractions committed on the other side; and that the decisions of Courts and Juries against the claims of interest are too well-founded to give cause for questioning their integrity —repeating, that no *lawful* impediment had been opposed to the prosecution of their just rights by British subjects;—that, if *unlawful* impediments had existed in the inferior Courts, they would have been overruled on appeal; if not, that the Government * would, on application, have interfered effectually.

* If he meant, which is to be inferred from his argument, relief from the Confederation—there was no Federal Court to overrule, and the previous narrative has shown the impotence of Congress. If relief from Virginia, she interposed the impediment by a law of her own State, obligatory on her Courts, and, by its express terms, on her Government. The argument is not less ex-

In the preparation of this voluminous document, Giles, Madison, Monroe, and Edmund Randolph—all of Virginia—were previously consulted, and it was the product of much labor.*

On receiving it, Hamilton addressed to Jefferson these brief comments, written "after one perusal."

"Mr. Hamilton † presents his respectful compliments to the Secretary of State. He has perused with as much care and attention as time has permitted, the draft of a letter in answer to that of Mr. Hammond, of March the fifth.

"Much strong ground has been taken and *strongly* maintained; particularly in relation to the recommendatory clauses of the treaty; the previous infractions by Great Britain, as to *Negroes* and posts, the question of interest, and many of the suggestions of the British Minister concerning particular acts and adjudications, as far as can be judged without consulting the documents, appear to be satisfactorily obviated. But doubts arise in the following particulars:

First. The expediency of the retaliation on the 1st, 2d and 3d pages. Much of the propriety of what is said depends on the question of the original *right* or *wrong* of the war. Should it lead to observations on that point, it may involve an awkward and irritating discussion. Will it not be more dignified, as well as more discreet, to observe concisely and generally, on the impropriety of hav-

traordinary. Of what moment was it to Great Britain whether the impediment was lawful or unlawful in the sense he intended? Would an unlawful impediment, still existing and not corrected, be less a violation of the treaty, because it was unlawful?

* Jefferson wrote Washington, May 16th, "Mr. Madison has favored me with some corrections for my letter to Mr. H."

† Hamilton's Works, iv., 141.

ing deduced imputations from transactions during the war; and (alluding in the *aggregate* and without *specification* to the instances of legislative warfare on the part of the British Parliament, which might be recriminated), to say that this is forborne, as leading to an unprofitable and unconciliating discussion?

"Second. The soundness of the doctrine (page 4) that all governmental acts of the *States* prior to the 11th of April are out of the discussion. Does not the term "*subjects*" to whom, according to Vatel, notice is necessary, apply merely to individuals? Are not *States* members of the federal league, *partes contractantes*, who are bound by the treaty itself, from the time of its conclusion; that is, in the present case, from the time the provisional treaty took effect, by the ratification of the preliminary articles between France and Britain?

"Third. The expediency of so full a justification of the proceedings of certain States with regard to debts. In this respect, *extenuation* rather than vindication would seem to be the desirable course. It is an obvious truth, and is so stated, that Congress alone has the right to pronounce a breach of the treaty and to fix the measure of retaliation. Not having done it, the States which undertook the task for them, contravened both their federal duty and the treaty. Do not some of the acts of Congress import that the thing was viewed by that body, in this light? Will it be well for the Executive now to implicate itself in too strong a defence of measures which have been regarded by a great proportion of the Union, and by a respectable part of the citizens of almost every State, as exceptionable in various lights? May not too earnest an apology for instalment and paper money laws, if made public hereafter, tend to prejudice, somewhat, the cause of good Government; and, perhaps, to effect disad-

vantageously the character of the General Government? To steer between too much *concession* and too much justification in this particular, is a task both difficult and delicate; but it is worthy of the greatest circumspection to accomplish it.

"Fourth. The expediency of risking the implication of the *tacit approbation* of Congress of the "retaliations of four States," by saying, that they neither *gave* nor *refused* their sanction to those retaliations. Will not the National character stand better, if no ground to suspect the connivance of the National Government is afforded? Is it not the fact, that Congress were inactive spectators of the infractions which took place, because they had no effectual power to control them?

"Fifth. The truth of the position, which seems to be admitted (page 57,) that the quality of *alien enemy*, subsisted till the definitive treaty. Does not an *indefinite cessation* of hostilities, founded too, on a preliminary treaty, put an end to the state of war, and consequently destroy the relation of alien Enemy?

"The state of war may or may not revive, if points, which remain to be adjusted by a definitive treaty, are never adjusted by such a treaty; but, it is conceived, that a definitive treaty may never take place, and yet the *state of war* and all its consequences be completely terminated.

"Sixth. The expediency of grounding any argument on the supposition of either party being in the *wrong;* (as in page 65). The rule in construing treaties is to suppose both parties in the right, for the want of a *Common Judge*, &c.; and a departure from this rule in argument might possibly lead to unpleasant recrimination.

"The foregoing are the principal points that have occurred on one perusal. They are submitted without

reserve. Some lesser matters struck, which would involve too lengthy a commentary; many of them merely respecting particular expressions. A mark + is in the margin of the places, which will probably suggest to the Secretary of State, on revision, the nature of the reflections which may have arisen. It is imagined, that there is a small mistake in stating that Waddington paid no rent."

Jefferson returned the following observations:

"First Objection.—The retaliatory clause is struck out, and only a general allusion to the instances of legislative warfare by the British Parliament is proposed.

"Second Objection.—As to matters of treaty, the State governments were mere subjects. Their action, like those of corporations in England, or like any other individuals, can only be governed by the promulgation; which therefore, is the term for their conformity. They are the '*sujêts*' of Vatel and '*subditi*' of Wolf in the passages before referred to.

"Third Objection.—It cannot be disputed, that Great Britain has been guilty of the first infraction; that these infractions have been highly injurious to us. I am therefore of opinion, that Great Britain cannot say, we have done wrong in retarding, in the moderate degree we have done, execution of some parts of the treaty, as an equivalent to what she had previously refused to fulfil on her part; that she cannot found on that, any claim of indemnification for debts lost by lapse of time; and, that the justifiable rights of our Country ought not to be given up by those whom they have appointed and trusted to defend them, where they may be justly defended.

"Fourth Objection.—The passage here alluded to is in the recapitulation, § 3. *It is struck out, and stands now.* —See letter."

"Fifth Objection. I rather consider a preliminary treaty as establishing certain heads of agreement, and a truce, till these and others can be definitively arranged; as suspending acts of hostility, and as not changing the legal character of *enemy* into that of *friend*. However, as this might be susceptible of a contradiction not worth our while to excite in this instance, I have struck out all affirmation of the position.

"Sixth Objection. The word *wrong* in the passage here alluded to is struck out and the word *act* substituted. We may say with truth, that it was by their ACT we were hindered from paying interest. While not qualifying it with the epithet of either RIGHT or WRONG, they are free to consider it as the former, while we do tacitly, as the latter.

"Wherever the mark + has been found, and its object understood, the passage has been corrected. They seem principally to have been affixed to those passages susceptible of being softened in the manner of expression; in some instances they were not understood. The mistake in the case of Waddington and Rutgers is corrected." *

From a perusal of these comments, it appears, that the original draft of Jefferson's letter was larger and more objectionable than the copy. It will be perceived, that the course which Hamilton suggested as to the preliminary observations was, in part, followed; some of his expressions being adopted; and that the unsound opinion as to alien enemy was abandoned. But in other respects, though modified, many of the exceptionable features were retained.

* Randall, ii. 60. "Most of Mr. Jefferson's foreign dispatches were drafted prior to any consultation in regard to their contents; and *we have scarcely yet met with an instance where they were altered in detail, and never in their general tenor, on subsequent consultation.*"

Congress was implicated by an implied assent. The States were excused for non-compliance by extending the right of notice to them—as *subjects* of the United States—an extraordinary doctrine to be assumed for mere convenience of argument. The gross breaches of morality by the tender and expost-facto laws, which it was one great purpose of the Constitution to restrain, were vindicated; and the great diplomatic error was committed, of proceeding in the discussion, on the assumption that England was in the wrong, and thus violating an established rule in construing treaties of adjustment.*

Hammond acknowledged the receipt of this paper on the second of June, stating that he should "transmit it without delay to his Court," "and promised" to avoid unnecessary procrastination. He added:—"Some of the principles, which you have advanced, do not appear to me at the present moment, to be entirely relevant to the subjects actually under discussion between our respective countries; and the difference between us in the statement of positive facts is so essential, as to render it an act of duty to my own character to vindicate the purity of the sources from which I have derived my information, by recurring to them, for corroborating testimony." With this view, he asked an explanation of a particular transaction stated to have occurred in England.

* Madison writes to Jefferson, June 12, 1792—"Your answer to Hammond was, *on the whole*, got triumphantly through the ordeal of the Cabinet. It is certainly not materially injured, though perhaps a little *defaced* by some of the criticisms to which you have yielded. The points in which you did not relax appear to me to be fully vindicated. The main one unanswerably so. The doctrine which would make the States the contracting parties could have been as little expected from that quarter, as it is irreconcileable with the tenor of the Confederation!"

The direction given by Jefferson to this correspondence produced the effect he had intended.—Convinced that a hostile spirit actuated that Department of this Government to which the conduct of its foreign affairs was confided; and seeing, that it was sustained by a numerous party in Congress, the British Cabinet, anticipating controversy, deferred executing the treaty of peace, and made no further advances during Jefferson's term of service towards commercial arrangements.

To widen the breach and to gain popularity, Jefferson caused this document to be made public! Immediately after this correspondence had commenced, the National Gazette published an appeal against the COURTS of the UNITED STATES for their recent adjudication, sanctioning the obligation of debts due to British subjects, as confirmed by the treaty of peace; contending that the execution of that treaty by England ought to be cotemporaneous with the exaction of these debts.

This appeal was followed by a series of inflammatory comments, exhibiting, as a consequence of this decision, the United States, as a territory, yet dependent on Great Britain.

Washington had, in the mean time, selected persons to represent this Republic at London and Versailles. The former of these missions was confided to Thomas Pinckney, a distinguished and discreet citizen of South Carolina. The latter to Governeur Morris.

Washington is seen to have entertained doubts as to his appointment to London, to which Madison pointedly objected. His conduct there justified these doubts. But Morris was justly regarded as a man of brilliant parts. He had been faithful to the best, highest interests of his country, in his opposition to the cabal against Washington; and had conspicuously opposed the subserviency of

leading men of Virginia to the arrogating policy of France. Hamilton, though not unaware of his indiscretion, observing in private, "he always wanted a friend at his elbow," was sure, that the honor of the United States would be safe in his hands, and trusted that he would feel the curb of high official responsibility, nor was he mistaken. The ties of an early and long friendship were also not forgotten.

The motives which had prompted Madison previously to oppose his preferment would operate still more powerfully upon Jefferson. He could not wish to be succeeded by a man of superb person and carriage, dashing manner, epicurean tastes, prompting vanity, who would eclipse him in all the lighter qualities and smooth appliances, so prevailing with a gay and gallant court; and who would not be slow to detect, perhaps, to expose, his culpability there; and over whom he could not hope to exert an influence.

When the nomination was presented to the Senate, it was postponed from day to day until the opposition to it was consolidated. A motion was then made, intended to prevent a permanent system of having ministers appointed to foreign courts. It was contended, that they only should take place when some special occasion should call for them;—the service being performed, the minister to be recalled. The ostensible reason assigned was economy. The motive of some of the senators was to prevent the appointment of any ambassador; of others, the appointment of Morris; of a few, a secret wish to wound the feelings of the President. Though supported earnestly by Robert Morris, Ellsworth, Read and King, the nomination was confirmed by a majority of only five votes.*

* Robert Morris to Governeur Morris. Nov. 22d and Dec. 5th, 1791, January 7th and 14th, 1792. In the latter, after stating the serious personal

The Instructions having been considered by the cabinet were forthwith given by Jefferson to Morris* and to Pinckney.

Morris was informed, that his functions were to be "constantly exercised in that spirit of sincere friendship and attachment which we bear to the French nation."—"With respect to their *government*, we are under no call to express opinions which might please or offend any party, and therefore it will be best to avoid them on all occasions public or private." "The patronage of our commerce and the extension of its privileges, both in France and her colonies, but most especially the latter," was earnestly recommended. The same duty, nearly in the same language, was inculcated on Pinckney, with an injunction to provide against the impressment of American seamen. The requisition of certificates of naturali-

objections raised against him, the writer remarks: "I pledged myself so solemnly for your honor and integrity, that they durst not impeach either, although they went as near *the wind* as possible." * * * "You must never forget that every part of your conduct will be watched; and that your official transactions are to pass through a medium indisposed to you, which, however, you must never appear to know. The President is your friend, * * * * * * * * * * *

Hamilton has been and is your friend—he respects you upon proper principles, and I think, you should confide in his friendship and support a confidential correspondence with him. You should do the same with the President, if his letters admit thereof which I think they will. * * * I think it requisite that you should know your real situation. Nobody is more capable of thinking and acting right, if you will but allow yourself time to think before you act. I rely with the greatest confidence, that none of your friends will ever find cause to regret the exertions they have made, and in this confidence, I remain affectionately yours, &c.

"P. S.—Colonel Hamilton means to write you a letter on prudence and discretion."

To give it more effect, the letter came from the President. Washington's Writings, x. 216. January 28, 1792.

* January 23, 1792. Jefferson's Works, iii. 150.

zation was rejected—"The simplest rule," it was observed, "will be, that the vessel being American, shall be evidence that the seamen on board her are such."—The number might be limited by the tonnage, and the privilege of visiting, merely for the purpose of ascertaining whether the number corresponded with the tonnage, to be limited by arrangement, ought to "be permitted."

Morris was soon after instructed to make a friendly remonstrance to France as to her recent commercial regulations; and it was intimated, as stated, that counter regulations might be the consequence.

During this correspondence with Hammond, a communication from the King of France, announcing his acceptance of a Constitution, was transmitted by the President to Congress.*

A Resolution was then offered in the House of Representatives, directing him to express the participation of the United States in the interests of the French Nation on this important event; and their sense of the wisdom and magnanimity displayed in the formation and acceptance of the Constitution.

A proposal to expunge this approval of a Constitution, so variant in its principles from those which sound theory and all experience sanctioned, was lost by a large majority. "We could not," Madison observed; "express in too strong terms our satisfaction at the Revolution, and the wisdom which has dictated the formation of this Constitution. Although it may not be exactly conformable to perfect wisdom, yet, I think, it contains more wisdom than any instrument that has ever fallen under my eye." "We are not," Smith replied, "called upon for a panegyric on a Constitution, diametrically opposite to our own—a Monarchy to a Republic—the whole Legis-

* March 5, 1792.

lative powers in one House—the Judiciary elective—the very members of the National Assembly not chosen, as we are, directly by the people. The Revolution is one thing—the Constitution is another. I rejoice in the one, but I do not approve of the other."

The President, in performing the duty enjoined upon him by Congress, avoided every expression committing his judgment as to the merits of this scheme of Government. Those who entertained the same opinions with him were stigmatized as the partizans of England.

Letters of warm gratulation on this event were addressed to the National Assembly by the Democratic Legislatures of Pennsylvania and Virginia.

The dispositions evinced, in the mean time, by this Government toward France were in strict accordance with the existing alliance.

Soon after his arrival, intelligence was received by Ternant of the Insurrection of St. Domingo. In the absence of the President and Secretary of State from the Seat of Government, he applied to the other Members of the Cabinet for aid in money and arms.—They were immediately granted. An act was also passed by Congress to facilitate the execution of the Consular Convention; and, in the bill to augment the revenue as seen, a marked preference was shown to the wines of France.

France, in the mean time, had passed through the phases of another Revolution.

To dissolve a confederation which had been formed against her, she declared War against Austria. The denunciation and suspension of her King followed. A National Convention was called. It met, and decreed the abolition of Royalty.

CHAPTER LXXVIII.

The formidable position assumed by the opposition in Congress, and the dangerous tenets it had recently espoused and promulgated, alarmed the friends of the Constitution. They believed that the restrictive constructions which were held up as the tests of attachment to Republican institutions were the mere pretexts of a party seeking popularity. They saw that these tenets would render the Government absolutely impracticable, as to many of the objects for which it was designed; and as to others, would greatly impair its necessary vigor. They declared, with a prophetic confidence, that the inevitable consequence of this strict interpretation would be, frequent usurpations of power, to which, as the public mind became habituated, no effectual barrier would exist. Their sincere attachment to Liberty deplored the meretricious caresses which were degrading and would destroy it.

They began to feel that the activity of the opposition was to be met with equal activity; that the false guises it had assumed, were to be exposed; and that the intelligence of the Nation must be aroused to the covert designs it harbored.

The term of office of the Governor of the State of New York was three years. Clinton had been elected

in seventeen hundred eighty-nine by a very small majority. Recent political combinations had given him increased strength. But it was thought, that the mind of that State was sound, and, if awakened, that the Federalists could obtain the ascendency. Chief Justice Yates, as the former candidate, under less propitious circumstances, had claims which were not to be disregarded. His official conduct was unimpeached. He had evinced every disposition to sustain the General Government. His personal influence was of weight.

Under these considerations, General Schuyler proposed to him again to accept a nomination. He was at first disposed to be a candidate, but an apprehension, that his pecuniary affairs would not permit it, induced him ultimately to decline.

The motives to the selection of Yates were strengthened by the circumstance, that Aaron Burr was an aspirant to the Governor's chair.

When Yates relinquished his pretensions, Burr advanced with increased confidence.

He well knew that his success must depend on the will of Hamilton. To gain him was a primary object. With this view, a confidential agent opened a correspondence.—Among the inducements offered, the probability of a zealous support from Yates, over whom it was alleged, Burr had "a personal dominion," was much urged.

If Burr should not be supported by the Federalists, in a collision between him and Clinton, they would be compelled "to promote the interest of the old incumbent," involving "a dereliction of principle," and would lose a triumph. Were he to succeed, should Hamilton not have the merit of his success, Burr's influence would be exerted against him. His election as Governor would

remove from the Senate an active opponent. Should he fail with the support of the Secretary of the Treasury, it would moderate his conduct, or bind him by ties of interest and gratitude. If he failed without it, he would return to the Senate, embittered against the Government, and its ablest advocates. "I have," remarked the agent, "sought repeated interviews with him, until I could procure from him an *artless* declaration of his sentiments, both with respect to the Union on present grounds, and also with respect to you. He has expressed a sincere regard for the safety and well being of the former; with respect to yourself, he expresses an entire confidence in the wisdom and integrity of your designs, and a real personal friendship." "Unless you have grounds of objection which I do not know of, I ardently wish, that the result of your interview with General Schuyler may be an adoption of the candidate."

Similar overtures were made through other channels. But Hamilton was on this point inflexible. No considerations of a personal nature could swerve him from his determination. Deeply convinced that Burr was a "pestilent politician," that his ambition had no restraints, that his politics terminated in himself,* he preferred to increase an hostility which he knew would be unrelenting, rather than risk the interests of the State.

Early in the year seventeen hundred and ninety-two, at an interview with Schuyler, Hamilton advised that Jay should be presented to the suffrages of New York.

As Chief Justice of the United States, Jay held a station second only in dignity to that of the President, but the real importance of that station was not yet wholly

* An advocate for Burr urged his nomination on the ground, that "*he did not belong to* either party." "A Plain Farmer."

developed. Though questions of magnitude were then brought under the decision of the Supreme Court, its jurisdiction was rarely appealed to. It remained for Marshall to confer the full-orbed lustre of his superior intellect upon that eminent office.

This situation of comparative inactivity, it was believed, Jay would not unwillingly exchange for one of less personal inconvenience and increased personal importance, and which, from its direct political influence, might open the way to the attainment of the highest object of ambition in the United States. In the year seventeen hundred and eighty-five, a nomination, as Governor of New York, was tendered to him, but he then, as Secretary of foreign affairs, filling the most important place in the country, declined this subordinate station. Had he been disposed to accept it, he was not free from doubts, whether "the circumstances of the State were pressing—if real disgust and discontent had spread through the country, if a change, had, in the general opinion, become not only advisable but necessary."* Nor were his doubts without foundation, for, so strongly was Clinton, at that time, entrenched in power, that an assault upon him would have been vain. The prospect of success was now brighter. Jay assented to the proposal, and, on the return of Schuyler to New York, was nominated as candidate for the succession. Unwilling to resign his hopes, the friends of Burr interceded with Hamilton, that he would not become "publicly and declaredly the advocate of Jay." Disappointed in this, his name was withdrawn.

The election which followed was indicative of high party excitement, increased by the zeal evinced by Chancellor Livingston in support of Clinton, his recent ally.

Among other strong objections, to Clinton, an alleged

maladministration in the Land Office was taken by the Federalists. They also urged, and with effect, the danger of continuing the same individual in a station of such large patronage, exerted through an irresponsible conclave, where cabal and intrigue would have full scope. Clinton had been the incumbent from the establishment of the Government, a period of fourteen years. They insisted, that, if ever the doctrine of rotation was applicable, it was applicable in this case.

The Democratic party admitted the principle, in general, to be sound, but claimed that the services of their Governor created an exception, and instanced, in support of their course, that Trumbull of Connecticut, and Livingston of New Jersey, had both died in office.*

The election took place in April. The coalition of Clinton with Livingston had also deeply injured him in the public confidence; and, Jay, though not enjoying much personal popularity, received a majority of the votes.

The election was by ballot. These ballots, the law required should be transmitted by the towns to the Sheriffs of the Counties, whose duty it was to deliver them into the office of the Secretary of State for the purpose of being submitted to a canvass.

The canvassers were a committee appointed by the Legislature, in which Clinton had a preponderance, and the majority of those appointed were his partisans.

It was known, that Jay had received a majority of all the votes of the State; but that the votes of three Counties were necessary to produce this majority. If these could be excluded, Clinton would retain his seat.

The Constitution of New York prescribed, that the Sheriffs should be appointed annually. There had been

* Circular of the democratic party, signed Jos. Hallett, N.Y. March 10, 1792.

frequent instances of these appointments being delayed. Indeed, from the circumstance, that the Council of appointment, was not in constant session, this was inevitable. The incumbent therefore held the office until his successor was installed. This had often occurred, and not an objection had been taken, in a single instance, to the legality of his acts.

It appeared, that the ballots of the County of Otsego, were transmitted by a person, whose term as Sheriff had expired, and whose successor though appointed, had not entered upon his office. That those of Tioga were brought to the Seat of Government by a Deputy Sheriff acting under a parol appointment; and those of Clinton County, had been confided to the care of a third person, the officer charged with them becoming too sick to continue his journey.

The canvassers determined that the person acting as Sheriff of Otsego was not the Constitutional Sheriff, that the Deputy of Tioga should have received a written appointment;—and that the accident which had befallen the officer charged with those of Clinton did not excuse their being confided to a third person. They *burned* the ballots of these Counties. Clinton was declared Governor by a majority of one hundred and eight votes, four of the Committee of canvassers protesting against this decision.

Great excitement prevailed throughout the State. Meetings were held which denounced this procedure in terms of extreme violence, and menaces were thrown out of an intention to call a Convention of the People, and by this Sovereign act to reinstate them in their violated rights; as was said, "for the sole purpose of canvassing the Canvassers."—The Chief Justice was absent at the time of this decision.

On his return, he was received, at the several stages

of his journey, with addresses indicative of the prevailing exasperation.

Hamilton, alarmed at the excitement, wrote to Rufus King:* "I received lately a letter from you in which you express sentiments according with my own on the present complexion of your party politics, as, if a letter of mine to you, did not miscarry, you will have seen. I wished that Clinton and his party should be placed in a just light before the people; and that a spirit of dissatisfaction within proper bounds should be kept alive, and this for National purposes, as well as from a detestation of their principles and conduct.

"But a resort to first principles in any shape is decidedly against my judgment. I don't think the occasion will in any sense warrant it. It is not for the friends of good government to employ extraordinary expedients, which ought only to be resorted to in cases of great magnitude and urgent necessity. I regret as well the idea of a Convention as of force.

"To rejudge the decision of the Canvassers by a Convention has to me too much the appearance of reversing the sentence of a Court by a Legislative decree. The Canvassers had a final authority in all the forms of the Constitution and laws.—A question arose in the execution of their office not absolutely free from difficulty, which they have decided (I am persuaded wrongly) but within the power vested in them. I do not feel it right or expedient to attempt to reverse the decision by any means not known to the Constitution or laws.

"The precedent may suit us to-day, but to-morrow, we may rue its abuse.

"I am not even sure that it will suit us at all. I see already publications aiming at a revision of the Constitu-

* July 25, 1792.

tion with a view to alterations which would spoil it. It would not be astonishing, if a Convention should be called, if it should produce more than is intended. Such weapons are not to be played with. Even the friends of good government in their present mood may fancy alterations desirable which would be the reverse.

"Men's minds are too much unsettled everywhere at the present juncture. Let us endeavor to settle them, and not to set them afloat.

"I find that strong-minded men here view the matter in the same light with me; and that even Mr. Jay's character is likely to suffer by the idea that he fans the flame a little more than is quite prudent.

"I wish this idea to be conveyed to him with proper *ménagement*. I have thoughts of writing to him.

"You see, out of the reach of the contagion, I am very cool and reasonable; if I were with you, I should probably not escape the infection. Farewell.

"P. S. Francis Childs is a very cunning fellow. In Philadelphia, in the person of his proxy, Freneau, he is a good anti-federalist and Clintonian.—In New York, he is a good Federalist and Jayite. Beckley* and Jefferson pay him for the first, and the Federal citizens of New York for the last. These things ought in a proper way to be brought into view."

If the prevalence of Hamilton's counsels in this instance increased in some breasts the growing jealousy of his predominating influence with the Federalists, the result confirmed their wisdom, in the minds of disinterested men. The design of a Convention happily was relinquished.

* Beckley a Virginian and tool of Jefferson had been chosen clerk of the House of Representatives. His dwelling was the resort of Madison, Monroe, Giles and others of the opposition. At their meetings a favorite toast in allusion to his ill health, was, "A speedy immortality to Hamilton."

The Legislature of New York assembled late in a year throughout which the public feelings were continually agitated; and a long protracted investigation took place as to the validity of the decision, which was confirmed by a party majority of four votes.* Opinions of Counsel were taken—Edmund Randolph and Burr sustained the destruction of the Votes. Burr was appointed by Clinton a Judge of the Supreme Court of the State, but resigned the office; and a relative of Livingston was promoted in his stead.

During these occurrences in New York, the National Gazette was pursuing its vocation of calumny.

It commenced with stating abstract propositions against "Monarchy—Hereditary distinctions—Consolidation"—Impeachments of the Financial policy followed.† The object of this policy was declared to be a perpetuation of the National debt, induced by a desire to corrupt the Legislative bodies, and render them servile instruments of covert designs hostile to the Republic.

As the debt could not be reduced without opening new sources of revenue, the people were alarmed at the prospect of increased taxation. Plans to augment the wealth by protecting the industry of the Country were declared to have no other object than to obtain new subjects of excise. Every fluctuation in the value of commodities was ascribed to vexatious regulations of Commerce. A Nation enjoying a prosperity, unparalleled in the history of the world, was told, that, "the blessings of the Govern-

* The Assembly resolved, "that it does not appear to this House that the Canvassers had conducted themselves with any impropriety in the execution of the trusts reposed in them by Law."

† "Consolidation"—"Money"—"Public opinion"—"Money charters"—"Parties"—"British Government"—"Government of U. S."—"Republican distribution of citizens"—"Fashion"—"Property"—are the heads of articles of which Madison was the author.

ment were alone to be found among speculators, living on the spoils of an injured and insulted people; and among a few needy citizens, who enjoy the profits of lucrative offices."

Jefferson had seen in France the irresistible influence of persevering detraction. The exciting scenes then passing in Europe so disturbed the minds of the people of the United States as to lead him to the belief that here also it would be successful.—But this must be the work of time. —Its progress was too slow for his ambition. A more certain and immediate mean would be to undermine the confidence of Washington in Hamilton, his long tried friend.

The establishment of the Capital of this vast empire within the limits of Virginia, which should perpetuate to the remotest posterity the memory of his great services, was with Washington a favorite object.

On this subject Hamilton had acted an important part. His influence had placed the Seat of Government temporarily at New York. He had defeated the early efforts to remove it to a Southern State. His preference of its establishment near the Delaware was not concealed.

A majority of the supporters of his system of Finance entertained the same views, and pressed them with zeal.— Virginia; it has been seen, pursued her object with a violence extending even to menaces of a dissolution of the Union.

Immediately after the compromise* which established the temporary residence at Philadelphia—an appropriation was proposed in the Legislature of Pennsylvania for the erection of a Congressional Hall and President's residence.

The jealousy that had induced the opposition to the

* Note at end of chapter.

Charter of the National Bank was sought to be infused into the mind of the President.* With this view, Jefferson informed him of this proceeding of Pennsylvania.

To remove every obstacle to this favorite object, Washington repaired to Mount Vernon, soon after Congress adjourned; and issued a Proclamation, which he was authorized to do, completing the location of the small territory, since known as the District of Columbia.

The reply of the President to Jefferson, gave, as has been stated, an obscure intimation of his intention to retire from office.—Combined with the declarations made by him on its acceptance, Jefferson inferred that he would decline a second election. This purpose was afterwards disclosed to him, by Washington. On its first annunciation to him, Jefferson was silent.—He subsequently concurred in the propriety of the step, and was consulted, together with Madison, on the terms of a Farewell Address.

A severe illness of Washington during the second year of his term had indicated the importance of a declaration being made by Congress of the person to succeed, in the event of the vacancy either of the President or Vice President.

His health being entirely restored, less interest was felt by his friends as to the designation of a successor,—but the zeal evinced by the partisans of the Secretary of State to secure the succession to him, awakened suspicion, and a discovery of the President's intention to withdraw explained the motive.

This purpose Hamilton combatted as alike injurious to the public interests, and dangerous to the President's reputation. Washington began to yield. Through whose

* Washington's Writings, x. 151, 207.

influence his opponents could not doubt. That influence must be destroyed.

On the twenty-ninth of February seventeen hundred ninety-two, Jefferson had an interview with the President. After stating, that "No man had ever less desire of entering into public offices than himself,"—that his long continuance in the public service had proceeded from a sense of duty and was reluctant, Jefferson informed him, that the epoch of his retirement from office would be contemporaneous with his. But he added, "that he did not believe that there was any idea in either of his brethren in the administration of retiring—that, on the contrary, he had perceived at a late meeting of the Trustees of the Sinking Fund, that the Secretary of the Treasury had developed the plan he intended to pursue, and that it embraced years in its view."*

He represents Washington, as having sought to dissuade him from retiring on the ground of the *more comprehensive* objects of the Department of State; and that his retirement would be more noticed;—urging, as an additional motive, the danger, lest increased dissatisfaction should be produced by too great a change in the administration.

"I told him," Jefferson relates, "that, in my opinion, there was only a single source of these discontents. Though they had indeed appeared to spread themselves over the War Department also, yet I considered that as an overflowing only from their real channel, which would never have taken place, if they had not first been generated in another department, to wit, that of the Treasury. That a system had there been contrived, for deluging the States with paper money, instead of gold and silver; for withdrawing our citizens from the

* Jefferson's Works, iv. 436.

pursuits of commerce, manufactures, buildings, and other branches of useful industry, to occupy themselves and their capitals in a species of gambling, destructive of morality, and which had introduced its poison into the Government itself. That it was a fact, as certainly known as that he and I were then conversing—that particular members of the Legislature, while those laws were on the carpet, had feathered their nests with paper, had then voted for the laws, and constantly since lent the energy of their talents, and instrumentality of their offices, to the establishment and enlargement of this system; that they had chained it about our necks for a great length of time, and, in order to keep the game in their hands, had, from time to time, aided in making such legislative constructions of the Constitution, as made it a very different thing from what the people thought they had submitted to, that they had now brought forward a proposition far beyond every one ever yet advanced, and to which the eyes of many were turned, as the decision which was to let us know, whether we live under a limited or an unlimited Government."

To the President's inquiry, as to what proposition he alluded, he replied, "to the Report on Manufactures," giving the version of it previously mentioned.

This attempt to alienate his mind was not encouraged by Washington. It was renewed through the medium of his private Secretary.

Through this channel representations made by Jefferson were conveyed to him, intended to rouse his pride at the alleged invasion of the Executive power, by the House of Representatives in their "orders to the Heads of the Executive Departments, without consulting him."*

* Jefferson's Writings, iv. 463. Yet this duty was expressly enjoined by the law creating the department.—He even represents the President as disapproving of the practice under the law!!

It has been seen, that, soon after the first session of the Second Congress expired, Washington proceeded to Mount Vernon. Though undecided, yet still contemplating retirement from office, referring to previous conversations with Madison on this subject, he wrote * him on the twentieth of May for his advice as to the "proper time and best mode of announcing his intention." If he thought such annunciation proper, he asked him, "to turn his thoughts to a Valedictory Address," and, having enumerated briefly some of the topics, requested him to "consider the several matters which ought to be contained in it," and whether it should appear simultaneously with the declaration of his intention to withdraw, or should be "the closing act of his administration." He also asked a suggestion of the subjects to be embraced in the Speech at the approaching Session.

This letter was addressed to Madison at Philadelphia. Not a moment was to be lost.—On the twenty-third of May, three days after its date, and from the tenor of what he wrote, probably having this letter before him, Jefferson wrote to the President at much length, following up his design to alarm him with the idea of wide-spread discontent, and to induce the belief, that, if he continued in the Presidency, it must be, without his co-operation.† The terms and tone of this letter were well adapted to its objects—to give Washington the impression that he wished him to remain in office—to cover his own earnest desire that he would leave the field open to himself—at the same

* Madison to Jefferson, 1792:—"I met the President on the road. I had no conversation with him, but he handed me a letter which he had written to me at home. Its contents are very interesting, but do not absolutely decide the problem" (his declining a re-election) "which dictated yours to him."

† This letter, *not published* in Randolph's edition of Jefferson's Works, will be found in Washington's writings, x., 504. Appendix.

time to prompt him to retire—to confirm him in that purpose—to prick him at the suspicion of irresolution—to induce him to regard persuasion as intrusive—and to impair his confidence in Hamilton and in the Federalists, who he knew regarded the President's continuance at the head of the Government as necessary to the Country; and would dissuade his retirement with all their united utmost influence.

He stated—that when the President first mentioned his purpose of retiring, though he felt the magnitude of the event, he was "in a considerable degree silent;" that he knew to such a mind as his persuasion was idle and impertinent; that before forming his decision, he had weighed all the reasons, had *made up his mind* in full view of them; and there could be little hope of changing the result. That, pursuing his own reflections, he knew they were some day to try to walk alone; and, if the essay should be made while he was alive, and looking on, they would derive confidence from that circumstance and resource, if it failed. The public mind, too, was then calm and confident. Had no change supervened, he should not, with any hope of success, have ventured to propose a change of purpose. But the public mind was no longer so confident and serene, and that from causes in which he was no way personally mixed. "Though these causes," he added, "have been hackneyed in the public papers in detail, it may not be amiss in order to calculate the effect they are capable of producing, to take a view of them in the mass—giving to each, the form, real or imaginary, under which they have been presented."

This recapitulation embraced the Funding System;* an excessive impost, and odious excise,† requiring coercion

* Yet see infra. vol. iv., 375. Note—Jefferson to Washington.

† Infra. iv. 449.

by force; propositions and suspicions of other projects to increase the debt—the irredeemable quality of the Stock—the transfer of capital abroad, and the banishment of coin by the creation of bank notes, the excessive profits of the Bank; its effect on industry and morals—the corruption of the Legislature—their usurpations of the Constitution—all having an "ultimate object to change the Republican form of Government to that of a Monarchy, modelled after the English Constitution." That the divisions were geographical, and the danger a dissolution of the Union.—These menacing circumstances were adduced as reasons for Washington's consent to a re-election with which was combined the situation of the Foreign relations.—It closed with a solicitation, that the President would "continue at the head of affairs," and with the annunciation of his own intention to resign—his "inclination being irresistibly bent on the tranquil enjoyment of his family, his farm, his books."

This characteristic letter, it is seen, was dated on the twenty-third of May. It is stated by Jefferson, that it was not received by the President, until after his return to Philadelphia, who, he relates, reopened the subject in a personal interview on the tenth of July.

On this occasion, Jefferson represents Washington* as using language, which is evidently contrived to produce the impression that he was still anxious to remain in office,† but feared the suspicion, that "his former professions of retirement," would be regarded as "mere affectation;"—to have admitted his "decay of hearing," and that, "perhaps his other faculties might fall off and he not

* Jefferson's Works, iv. 467.

† Yet Jefferson wrote Ceracchi—that the President consented to a re-election "*though with infinite reluctance.*" Nov. 14, 1793. Jefferson's Works, iv. 82. ed.: 1854.

be sensible of it;" that, as to the causes of uneasiness, there were suspicions against a particular party which had been carried a great deal too far—there might be *desires* but he did not believe there were *designs* to change the form of Government into a Monarchy . . . .; that "the pieces lately published, and particularly in Freneau's paper, seemed to have in view the exciting opposition to the Government.* *That this had taken place in Pennsylvania as to the excise law.*" That they tended to produce a separation of the Union—the most dreadful of all calamities—and that whatever tended to produce anarchy, tended, of course, to produce a resort to monarchical government" . . . . "That, in condemning the administration of the Government, they condemned him, for if they thought there were measures pursued contrary to his sentiments, they must conceive him too careless to attend to them, or too stupid to understand them. That though, indeed, he had signed many acts which he did not approve in all their parts, yet he had never put his name to one which he did not think, on the whole, was eligible." * * "He did not believe the discontents extended far from the Seat of Government." * * * "He found the people contented and happy."

Jefferson's observations, he himself relates, "tended principally to enforce the topics of his letter—stating that the two great complaints were—the unnecessary increase of the debt; and that it had furnished the means of corrupting both branches of the Legislature. Washington passed by the charge of corruption unnoticed, which had he believed it, he could not have done; but defended the

* That these pieces had another object may be inferred from iv. Jefferson, 86.—He says, "The *torture* he (Washington) felt under *rare* and *slight* attacks, proved that under those of which the federal bands have shown themselves capable, *he* would *have thrown up the helm in a burst of indignation.*"

Assumption, arguing that, "it had not increased the debt, for that all of it was *honest* debt." "He justified the Excise Law, as one of the best laws which could be passed, as nobody would pay the tax who did not choose to do it."

With respect to the increase of the debt, by the Assumption, Jefferson says, "I observed to him, that what was meant and objected to, was, that it increased the debt of the General Government, and carried it beyond *the possibility of payment;* that if the balances had been settled, and the debtor States *directed* to pay their deficiencies to the creditor States, they would have done it easily, and by resources of taxation in their power, and *acceptable to the people, by a direct tax in the South* and an Excise in the North." "Still he," (Washington) said, "it would be paid by the people." Finding him decided, I avoided entering into argument with him on those points."

The improbability of this qualified acknowledgment of the decay of his faculties by a man of Washington's character, at a time when this very narrative exhibits him, clear in his perceptions, just in his conclusions, and resolved in his opinions, is manifest.

Though Jefferson had evidently failed in his object, the pertinacity with which his objections were urged determined the President to place them before Hamilton, without disclosing their source.

Having again repaired to Mount Vernon he wrote to him on the twenty-ninth of July, nearly two months after he had received the letter of Jefferson containing them.

"On my way home, and since my arrival here, I have endeavored to learn from sensible and moderate men, known friends to the Government, the sentiments which are entertained of public measures. *These all agree that the Country is prosperous and happy,* but they seem to be alarmed at that system of policy, and those interpreta-

tions of the Constitution; which have taken place in Congress. Others, less friendly, perhaps to the Government, and more disposed to arraign the conduct of its officers, (among whom may be classed my neighbor and *quondam* friend Colonel M.*) go further and enumerate a variety of matters, which as well as I can recollect, may be adduced under the following Heads."

Having distributed the paragraphs of Jefferson's letter "into Heads or Sections," "and numbered them," he then requested Hamilton to furnish him with his ideas upon the "enumerated discontents," as soon as might be convenient, "that those ideas may be applied to the correspondent numbers."

Hamilton had recently written to the Vice President, announcing that Clinton was to be his competitor at the next election. He then observed—"If you have seen some of the last numbers of the National Gazette, you will have perceived that the plot thickens, and that something very like a serious design to *subvert the government* discloses itself." †

Referring to the President's letter, in answer to an enquiry of the Vice President when his salary was to commence, he observed,‡ "You forget that Mr. Clinton could feast upon what would starve another. He will not however have the opportunity of making the experiment, and I hope the starvation policy will not long continue fashionable. Your confirmation of the good disposition of New England is a source of satisfaction. I have a letter from a well-informed friend in Virginia, who says all the persons I converse with, acknowledge that the people are prosperous and happy, and yet most of them, including even the friends of the Government,

* Washington's Writings, x. 249. "George Mason."

† June 25, 1792. ‡ August 16.

appear to be much alarmed at a supposed system of policy, tending to subvert the Republican Government of the Country. Were ever men more ingenious to torment themselves with phantoms."

NOTE TO PAGE 32.

Letters of Jefferson to which access has been had since the publication of the previous volumes give additional evidence of his interest in this matter. —June 12, 1790, referring to the proceedings in Congress he writes—"We hope an opening will be given to convert it into a vote of a *temporary* seat at Philadelphia and the *permanent* one at Georgetown."—June 20, 1790, to Munroe—same idea—to Randolph same view.—June 27, 1790, Jefferson to Dr. Gilmer —"Perhaps" this (a modified assumption) "might bring about so much good humor as to induce them to give the *temporary seat of government* to Philadelphia—then to Georgetown permanently. This is the least bad of all the turns the thing can take." Same view in letters of July 4 and 15, 1790.

Yet he is seen (works iv. 448) calling this "a fiscal manœuvre"—stating that he "was really a *stranger* to the whole subject," and ascribing the compromise to Hamilton, which his warmest personal friends—the members he influenced all opposed—As to this compromise, earnestly accomplished by himself, Jefferson states—"This added to the number of votaries to the Treasury, and made its chief the master of every vote in the legislature, which might give to the government the direction suited to his political views."

CHAPTER LXXIX.

As soon as Hamilton's public avocations permitted, he replied, at large, to the President's letter.

In his note* covering his "Answers," he observed, "They have unavoidably been drawn in haste, too much so to do perfect justice to the subject, and have been copied just as they flowed from my heart and pen, without revision or correction. You will observe, that here and there some severity appears. I have not fortitude enough always to hear with calmness, calumnies which necessarily include me as a principal object in the measures censured, of the falsehood of which I have the most unqualified consciousness. I trust that I shall always be able to bear, as I ought, imputations of errors of judgment; but I acknowledge, that I cannot be entirely patient under charges which impeach the integrity of my public motives or conduct. I feel, that I merit them in no degree, and expressions of indignation sometimes escape me in spite of every effort to suppress them. I rely on your goodness for the proper allowances."

In this reply, each "Objection" is followed with its appropriate answer.

Nothing could have occurred more happily for Hamil-

* August 18, 1792.

ton's fame than such an opportunity of exhibiting the motives, grounds and results of his policy.—His review of the objections is a most triumphant vindication of it and of the Federal party, from all the aspersions to which credulity long lent a willing ear.

The* "OBJECTIONS and ANSWERS, RESPECTING the ADMINISTRATION OF THE GOVERNMENT," as Hamilton has designated this paper, are too voluminous to be inserted here.

He proved, "that there had been no accumulation of the debt by the Funding system;" that, "the burthens of the people had been lightened," and that "it was a mockery of truth to represent the United States as a community burthened and exhausted by taxes." That the duties on imports were moderate; that the excise was of equal operation, considerably productive, and not enforced by any arbitrary or vexatious means, and had encouraged enterprise.—That the loans had been on the most favorable terms—lower than those made during the Confederation, because of the specific pledges to redeem them; and that the project of borrowing the whole sum adequate to pay off the debt would have had the most pernicious effects by creating a monetary plethora in the country, which would have been followed by a momentary scene of extravagance and subsequent ruin—while it would have *raised* the terms of the loans, which had been actually about four and a quarter per cent.—and the interest on the whole debt which had been reduced from six to four and a half per cent. That the power of redemption reserved was equal to the abilities of the country.

* Works of Hamilton, iv. 248. Randall's "Life of Jefferson," may be judged of by the fact, that though repeating the calumnies of Jefferson and frequently quoting "Hamilton's Works," he *omits all mention of this conclusive reply.*

As to the allegation of Jefferson, that the avowed purpose of its irredeemable quality was to invite its transfer abroad.—"This," he said, "was a palpable misrepresentation, as the avowed purpose was to give an equivalent for the reduction of interest." The rise of the six per cents. above par, could not have occurred, had the debt been redeemable at pleasure; hence foreigners paid more for it, and the transfer abroad would be slower as it required a larger capital to purchase it. The assertion, that the transfer to foreigners induced a drain of our resources was answered by the fact, that an equivalent was received which had not been expended in luxury, as there was no sensible increase in the expense of living, and there had been large and useful investments of capital. The effect of Bank paper to banish coin was a subject on which theorists differ, but as the quantity circulated was in proportion to the demand, the presumption was, that a greater quantity of industry was put in motion, so as to call for a larger circulating medium. But Banks more than compensate for the loss of specie. "Smith," who was a witness to their effects in Scotland, when, too, a very adverse fortune attended some of them, bears his testimony to their beneficial effects.

The profits of the Bank had not exceeded eight per cent., and instead of being so much taken out of the pockets of the people, were a mere equivalent for the use of the capital loaned to them. That paper speculations encourage gaming was true within certain limits, but they also promoted and aided enterprise. Though such was the effect of the debt, it existed, and however provided for, would have been an object of speculation.

That it had furnished the means of corruption was stated to be an assertion which can only be denied and pronounced to be malignant and false. No facts exist to

support it, and being a mere matter of fact, no *argument* can be brought to repel it. The assertors beg the question, they assume to themselves and to those who think with them infallibility.—Take their word for it, they are the only honest men in the community. But compare the tenor of men's lives, and, *at least*, as large a proportion of virtuous and independent characters will be found among those whom they malign, as among themselves.

A member of a majority of the legislature would say to these defamers; In your vocabulary, Gentlemen, *Creditor* and *Enemy* appear to be synonymous terms. The support of public credit and corruption of similar import —an enlarged and liberal construction of the Constitution for the public good and for the maintenance of the due energy of the national authority of the same meaning with you as usurpation and a conspiracy to overturn the Republican Government of the country. Every man of a different opinion from your own, an ambitious despot or a corrupt knave. You bring every thing to the standard of your narrow and depraved ideas, and you condemn, without mercy or even decency, whatever does not accord with it. Every man who is either too long or too short for your political couch must be stretched or lopped to suit it. But your pretensions must be rejected, your insinuations despised. Your politics originate in immorality—in a disregard of the maxims of good faith, and the rights of property, and if they could prevail, must end in national disgrace and confusion. Your rules of construction for the authorities vested in the Government of the Union would arrest all its essential movements, and bring it back, in practice, to the same state of imbecility, which rendered the old Confederation contemptible. Your principles of liberty are principles of licentiousness, incompatible with all government. You sacrifice

every thing that is venerable and substantial in society to the vain reveries of a false and new fangled philosophy. As to the motives by which I have been influenced, I leave my general conduct in private and public life to speak for them. Go and learn among my fellow-citizens whether I have not uniformly maintained the character of an honest man. As to the love of liberty and country you have given no stronger proofs of being actuated by it than I have done.

"Cease, then, to arrogate to yourself and to your party, all the patriotism and virtue of the country. Renounce, if you can, the intolerant spirit by which you are governed, and begin to reform yourself, instead of reprobating others, by beginning to doubt of your own infallibility.

"Such is the answer which would naturally be given by a member of the majority in the Legislature to such an objection. And it is the only one that could be given, until some evidence of the supposed corruption should be produced."

He added, "as far as I know, there is not a member of the Legislature, who can properly be called a stock-jobber or a paper-dealer. There are several of them who were proprietors of public debt in various ways. Some for money lent and property furnished to the United States; others for sums received in payment of debts, and, it is supposable enough, that some of them had been purchasers of the public debt, with intention to hold it as a valuable and convenient property, considering an honorable provision for it as a matter of course. I believe the number of Members of Congress is very small who have ever been considerable proprietors in the funds. And as to improper speculations on measures depending before Congress, I believe never was any body of men

freer from them. There are several members who have become proprietors in the Bank, a few, to a pretty large amount, say, fifty or sixty shares; but all operations of this kind were necessarily subsequent to the determination of the measure. Can it be culpable to invest property in an institution which has been established for the most important national purposes? Can that property be supposed to corrupt the holder? It would render him friendly to the preservation of the Bank, but could give him no improper bias on other questions? Were the provisions for the debt annual, it would be impossible to conceive a more fruitful source of corruption than this!

It is a fact which cannot soon be forgotten, that at the very time Jefferson was seeking to alarm the President by charges of the corruption of Congress through the Bank of the United States, he wrote, proposing the establishment of a bank at Richmond, authorized to discount on deposits of wheat—"Could not a counter bank be set up" * * * "and would not such a bank enlist the legislature in its favor, and against the Treasury bank."* The legislature of Virginia was chiefly composed of the wheat-growers of a State then greatly indebted.

. . As to the constructions of the Constitution, Hamilton proceeded to observe, "there are some things the General Government has clearly a right to do. There are others it clearly has no right to meddle with, and there is a good deal of middle ground. Some of this may have been occupied by the National Legislature, but this is no evidence of a desire to get rid of limitations in the Constitution. The truth is, one description of men is disposed to do the essential business of the Nation by a liberal construction of the powers of the Government; another, from disaffection, would fritter away those powers—a third, from an

* Jefferson to Washington. July 3, 1792.

overweening jealousy, would do the same thing—a fourth, from party and personal opposition are torturing the Constitution into objections to every thing they do not like. The Bank is one of the measures which is deemed by some the greatest stretch of power, and yet its constitutionality has been established in the most satisfactory manner, and the most incorrigible theorists among its opponents would in one month's experience, as head of the Department of the Treasury, be compelled to acknowledge that it is an absolutely indispensable engine in the management of the Finances, and would quickly become a convert to its perfect constitutionality."

As to the charge, that the ultimate object was to prepare the way for a change of the Republican form of Government to that of a monarchy, after the British model, he answered; "To this there is no other answer than a flat denial.* The idea of introducing a monarchy or aristocracy into this Country, by employing the influence and force of a government continually changing hands, towards it, is one of those visionary things, that none but madmen could meditate, and that no wise man will believe.

"If it could be done at all, which is utterly incredible, it would require a long series of time, certainly beyond the life of any individual, to effect it. Who then would

* Jefferson to Lafayette, June 16, 1792. "You will wonder to be told that it is from NEW ENGLAND chiefly, that these champions for a King, Lords and Commons come.—They get some important associations from NEW YORK, and are puffed by a tribe of Agioteurs which have been hatched in a bed of corruption, made up after the model of their beloved England—too many of these stock-jobbers and king-jobbers." Three days after, Jefferson writes Thomas Paine—"It is but too true, that we have a sect preaching up and panting after an English constitution of Kings, Lords and Commons, and whose heads are itching for crowns, coronets and mitres, but *our people, my good friend, are firm* and *unanimous* in their principles of republicanism."

enter into such a plot? For what purpose of interest or ambition? To hope that the people may be cajoled into giving their sanction to such institutions is still more chimerical. A people so enlightened and so diversified as the people of this Country, can surely never be brought to it, but from convulsions and disorders, in consequence of the arts of popular demagogues.

"The truth unquestionably is, that the only path to a subversion of the Republican system of this Country is, by flattering the prejudices of the people, and exciting their jealousies and apprehensions, to throw affairs into confusion, and bring on civil commotion. Tired at length of anarchy or want of government, they may take shelter in the arms of Monarchy for repose and security. Those, then, who resist a confirmation of public order are the true artificers of monarchy. Not that this is the intention of the generality of them. Yet it would not be difficult to lay the finger upon some of their party who may justly be suspected. When a man unprincipled in private life, desperate in his fortune, bold in his temper, possessed of considerable talents, having the advantage of military habits, despotic in his ordinary demeanor, known to have scoffed in private at the principles of liberty; when such a man is seen to mount the hobby-horse of popularity, to join in the cry of danger to liberty—to take every opportunity of embarrassing the General Government and bringing it under suspicion, to flatter and fall in with all the nonsense of the zealots of the day; it may justly be suspected that his object is to throw things into confusion, that he may 'ride the storm and direct the whirlwind.'

"It has aptly been observed that *Cato* was the Tory, *Cæsar* the whig of his day. The former frequently resisted; the latter always flattered the follies of the peo-

ple. Yet the former perished with the Republic—the latter destroyed it.

"No popular government was ever without its Catalines and Cæsars:—these are its true enemies."

Having thus adverted to the character of Burr, he proceeded:—

"As far as I am informed, the anxiety of those who are calumniated is to keep the Government in the state in which it is—which they fear will be no easy task, from a natural tendency in the state of things to exalt the local on the ruins of the National Government. Some of them appear to wish, in a constitutional way, a change in the Judiciary department of the Government, from an apprehension that an orderly and effectual administration of justice cannot be obtained without a more intimate connection between the State and National tribunals. But even this is not an object of any set of men, as a party. There is a difference of opinion about it on various grounds, among those who have generally acted together. —As to any other change of consequence, I believe nobody dreams of it.

"'Tis curious," he proceeded, "to observe the anticipations of the different parties. One side appears to believe, that there is a serious plot to overturn the State Governments, and substitute a Monarchy to the present Republican system. The other side firmly believes, that there is a serious plot to overturn the General Government, and elevate the separate power of the States upon its ruins. Both sides may be equally wrong; and their mutual jealousies may be material causes of the appearances which mutually disturb them, and sharpen them against each other."

In reply to the assertion, that a change into a monarchy was contemplated in the Convention, he stated:

"This is a palpable misrepresentation. No man that I know of, contemplated the introducing into this Country a monarchy. A very small number (not more than three or four) manifested theoretical opinions favorable, in the abstract, to a Government like that of Great Britain,* but *every one* agreed that such a constitution, except as to the general distribution of departments and powers, was out of the question in reference to this country. The member who was most explicit on this point (a member from New York) declared in strong terms, that the Republican theory ought to be adhered to in this Country as long as there was any chance of its success;—that the idea of a perfect equality of political rights among the citizens, exclusive of all permanent or hereditary distinctions, was of a nature to engage the good wishes of every good man, whatever might be his theoretic doubts. That it merited his best efforts to give success to it in practice, that hitherto, from an incompetent structure of the Government, it had not had a fair trial, and that the endeavor ought then to be to secure to it a better chance of success by a Government more capable of energy and order. There is not a man at present in either branch of the Legislature, who, that I recollect, had held language in the Convention favorable to a monarchy. * * * In the Senate, there are nine or ten who were members of the Convention; in the House of Representatives not more than six or seven.—Of those who are in the last mentioned House none can be considered as influential but Mr. Madison and Mr. Gerry. Are they Monarchy men?"

* Madison admits this in a letter to Andrew Stevenson, 25th March, 1826. "Certain it is that not more than two or three members of the body, and they, rather *theoretically*, than *practically*, were in favor of an unlimited government founded on a consolidation of the States." "Selections from his private correspondence" published by J. C. McGuire, p. 62.

It is important to remark as to this statement of the opinions in the Convention, that it was made to Washington, who attended daily during its deliberations, without any absence, and who, if opinions other than those stated had been expressed, if they escaped his attention, would have heard them commented upon by others.

In farther reply to Jefferson, Hamilton observed, "It is to be regretted that party discriminations are so far geographical as they have been, and that ideas of a severance of the Union are creeping in, both North and South.

"In the South, it is supposed that more government than is expedient is desired by the North. In the North, it is believed, that the prejudices of the South are incompatible with the necessary degree of Government, and with the attainment of the essential ends of National Union. In both quarters, there are respectable men who talk of separation, as a thing dictated by the different geniuses and different prejudices of the parts. But, happily, the number is not considerable, and the prevailing sentiment of the people is in favor of their true interest, UNION;—and it is to be hoped that the efforts of wise men will be able to prevent a schism which would be injurious in different degrees to different portions of the Union, but would seriously wound the prosperity of all.

"As to the sacrifice of Southern to Northern prejudices; if the conflict has been between *prejudices* and *prejudices*, it is certainly to be wished, for mutual gratification, that there had been mutual concession: but, if the conflict has been between *great* and substantial national objects on the one hand, and theoretical prejudices on the other, it is difficult to desire that the former should in any instance have yielded."

The residue of this "Answer" related to the distribu-

tion of the debt. It closed with observations on the assertion, that the anti-federal champions were strengthened in their objections to the Constitution by the proceedings of the Monarchical federalists, while the Republican federalists are disarmed of their weapons by prophecy having become history.

Hamilton replied, "All that can be said in answer to this, has been already said. It is much to be wished, that the true state of the case may not have been, that the anti-federal champions have been encouraged in their activity, by the countenance which has been given to their principles, by certain Federalists, who, in an envious and ambitious struggle for power, influence, and pre-eminence, have embraced as auxiliaries, the numerous party originally disaffected to the Government, in the hope, that these united with the factious and feeble-minded federalists whom they can detach, will give them the predominancy. This would be nothing more than the old story of personal and party emulation. The anti-federal champions alluded to, may be taught, to abate their exultation, by being told, that the great body of the Federalists or rather the great body of the people, are of opinion, that none of their predictions have been fulfilled: that the beneficial effects of the Government have exceeded expectation, and are witnessed by the general prosperity of the Nation." *

* It has been stated by the relatives of Washington, that a short time after his decease, some of his confidential papers, including a severe philippic by Washington addressed to Jefferson, were abstracted by Lear, who was Washington's private secretary, at Jefferson's instance. The "objections" of Jefferson here referred to, it is not a little remarkable, *remained* among Washington's papers. Hamilton's "Answer" *was not found* among them. "The parts of this letter relating to the administration were answered by Mr. Hamilton, in a reply to the President's letter in the text, but the answer *is not found among Washington's papers.*" Note by Jared Sparks, Washington's Writings, x. 509

During the President's short sojourn at Philadelphia in June, Hamilton again urged upon him the importance of his continuance in office. Madison at this time enclosed to the President a draft of a Valedictory Address which he had been requested to prepare. Having replied to him, that this Address ought to appear, "by the middle of September or a little earlier," he expressed his hope, that "a reconsideration of the measure, in all its circumstances and consequences, will have produced an acquiescence in one more sacrifice, severe as it may be, to the desires and interests of your country."

In his long and intimate intercourse with Washington, Hamilton had become familiar with the habits of his mind, and had perceived great advantage in placing before him his views on paper, for his full and careful deliberation. This mode he now adopted. *On the day subsequent* to that on which the letter from Washington enclosing Jefferson's accusations was *dated*, and *before* it could have been received from Mount Vernon, he wrote him in the following impressive terms:—

"PHILADELPHIA, July 30th, 1792. I received the most sincere pleasure at finding in our last conversation, that there was some relaxation in the disposition you had before discovered to decline a re-election. Since your departure, I have lost no opportunity of sounding the opinions of persons whose opinions were worth knowing, on these two points:

"First, The effect of your declining upon the public affairs and upon your own reputation.

"Secondly, The effect of your continuing, in reference to the declarations you have made of your disinclination to public life. And I can truly say, that I have not found the least difference of sentiment, on either point. The impression is uniform, that your declining would be to be

deplored as the greatest evil, that could befall the country at the present juncture, and as critically hazardous to your own reputation,—that your continuance will be justified in the mind of every friend to his country by the evident necessity for it. 'Tis clear, says every one with whom I have conversed, that the affairs of the National Government are not yet firmly established,—that its enemies, generally speaking, are as inveterate as ever;—that their enmity has been sharpened by its success, and by all the resentments which flow from disappointed predictions, and mortified vanity; that a general and strenuous effort is making in every state, to place the administration of it in the hands of its enemies, as if they were its safest guardians;—that the period of the next House of Representatives is likely to prove the crisis of its permanent character, that if you continue in office, nothing materially mischievous is to be apprehended; if you quit, much is to be dreaded . . . that the same motives which induced you to accept originally ought to decide you to continue, till matters have assumed a more determinate aspect . . . that, indeed, it would have been better as it regards your own character, that you had never consented to come forward, than now to leave the business unfinished and in danger of being undone; that in the event of storms arising, there would be an imputation either of want of foresight or want of firmness; and in fine, that on public and personal accounts, on patriotic and prudential considerations, the clear path to be pursued by you will be again to obey the voice of your Country; which it is not doubted will be as earnest and unanimous as ever.

"On this last point, I have some suspicion, that it will be insinuated to you, and perhaps (God forgive me if I judge hardly) with design to place before you a motive

for declining . . . that there is danger of a division among the electors, and of less unanimity, in their suffrages than heretofore. My view of this matter is as follows:—

"While your first election was depending, I had no doubt, that there would be characters among the electors, who, if they durst follow their inclinations, would have voted against you; but that in all probability they would be restrained by an apprehension of public resentment—that, nevertheless, it was possible a few straggling votes might be found in opposition, from some headstrong and fanatical individuals, that a circumstance of this kind would be, in fact, and ought to be estimated by you, as of no importance . . . since there would be sufficient unanimity to witness the general confidence and attachment towards you.

"My view of the future accords exactly with what was my view of the past. I believe the same motives will operate to produce the same result. The dread of public indignation will be likely to restrain the indisposed few. If they can calculate at all they will naturally reflect that they could not give a severer blow to their cause than by giving a proof of their hostility to you. But, if a solitary vote or two should appear wanting to perfect unanimity of what moment can it be? Will not the fewness of the exceptions be a confirmation of the devotion of the community to a character, which has so generally united its suffrages, after an administration of four years at the head of the new Government, opposed in its first establishment by a large proportion of its citizens, and obliged to run counter to many prejudices in devising the arduous arrangements, requisite to public credit and public order? Will not those who may be the authors of any such exceptions manifest more their own perverseness and malev-

olence—than any diminution of the affection and confidence of the Nation! I am persuaded, that both these questions ought to be answered in the affirmative; and that there is nothing to be looked for on the score of diversity of sentiment, which ought to weigh for a moment.

"I trust, Sir, and I pray God, that you will determine to make a further sacrifice of your tranquillity and happiness to the public good. I trust that it need not continue above a year or two more. . . . And I think that it will be more eligible to retire from office before the expiration of the term of an election, than to decline a re-election.

"The sentiments I have delivered upon this occasion, I can only say, proceed exclusively from an anxious concern for the public welfare, and an affectionate personal attachment. These dispositions must continue to govern in every vicissitude one who has the honor to be very truly and respectfully, yours, &c."

"Aug. 3d. Since writing the foregoing—I am favored with your interesting letter of the twenty-ninth of July.—An answer to the points raised is not difficult, and shall as soon as possible be forwarded."

Washington now relaxed in his purpose to decline a re-election. Who, looking at subsequent events, can measure the amount of the benefit Hamilton, by aiding in this result, conferred upon this country?

As his hesitation had proceeded, in a great degree, from an exaggerated representation of the prevailing discontents, the preceding letter may be supposed to have had much weight. This is seen in the following note, which in contradistinction to the inventions of Jefferson, to induce a doubt of the reality of Washington's reluctance to office, shows how differently he was estimated by a sincere and

tried friend. In reply to a proposition from McHenry to support Charles Carroll as a Candidate in the event of the President's retirement, Hamilton observed, "Your project with regard to the Presidency in a certain event will, I believe, not have an opportunity of being executed.—Happily for the public tranquillity, the present incumbent, after a serious struggle, inclines, if I mistake not, to *submit* to another election.—If it turns out otherwise, I say unequivocally, I will co-operate in running the gentleman you mention as one of the two who are to fill the two great offices—which of the two may turn up, *first* or *second*, must be an affair of some casualty as the Constitution stands. My real respect and esteem for the character brought into view will ensure him my best wishes in every event." *

While the hope was entertained by his leading adversaries, that Washington would retire, the whole country was agitated by their followers. Candidates were brought forward in the several States to divide the federal strength, and agents from Virginia were seen traversing the interior, disseminating distrust.† In Pennsylvania, a Committee of correspondence was formed for political objects, at the head of which were McKean the Chief Justice of that State and Dallas its Attorney General. Addresses were published to the Soldiers exciting them against the Funding system. The Mechanics were told that their labor had been fostered to subject it to an Excise, and the Agriculturists were asked to look at the incorporations formed to promote manufactures, and then to see if they could find any proposition having in view the advancement of their great interest.

To encourage disaffection was the great object in view,

* Hamilton's Works, v. 536. Sept. 10, 1792.

† E. Boudinot to Hamilton. Sept. 13, 1792.

and a recommendation appeared at this time in the "National Gazette" of the establishment of "Constitutional Societies" to preserve an uncorrupted legislation.

The similarity of the charges, contained in the inculpatory letter of Jefferson to the President, to those with which that Gazette was teeming, and which were urged by individuals in the immediate confidence of its patron, left no doubt in Hamilton's mind, that, if not immediately preferred, they were instigated by him. His Gazette had lately assumed a bolder tone.—A recent violation of the excise law was openly applauded * in it; and strictures were appearing, day after day, denouncing that law as an aggression upon freedom; and the Secretary of the Treasury, as its author, with designs inimical to Liberty.

The time had arrived when it became a duty to expose the source and purpose of these calumnies; and immediately after receiving the President's letter detailing the imputations on the administration, an article appeared in the "Gazette of the United States" from the pen of Hamilton, over the signature of "An American." † Its intention was to promulgate the fact, that the National Gazette had been instituted by Jefferson, and that its Editor was pensioned out of the public money by him; the evident object being "to decry the government and its measures." "If he" (the Secretary of State) "disapproves of the Government itself, and thinks it deserving of his opposition," it asked, "can he reconcile it to his personal dignity and the principles of probity to hold an office under it, and employ the means of official influence in that opposition? If he disapproves of the leading measures which have been adopted in the course of its administration, can he reconcile it with the principles of delicacy and proprie-

* In paper, June 25, 1792.

† Aug. 4, 1792. Hamilton's Works, vii. 1.

ty to hold a place in that administration, and at the same time be instrumental in vilifying measures, which have been adopted by majorities of both branches of the Legislature, and *sanctioned by the Chief Magistrate of the Union?*"

Other charges followed—that Jefferson had, while the Constitution was depending before the people for their consideration and decision, first "discountenanced its adoption," and then "recommended it on the ground of expediency in certain contingencies"—that he is "the declared opponent of almost all the important measures which have been devised by the Government"—of the provision for the Debt, the Bank, and of every act relating to the finances.

A strong appeal was made to the people to decide between the authors of these measures which had elevated the public credit, so recently prostrate, to an equal station with that of any nation upon earth, and which had diffused wealth and happiness over the country, and the opponents of them. "If they are disposed to see the national government transformed into the skeleton of power;—if they are persuaded that nations are under no ties of moral obligation,—that public credit is useless, or something worse—that public debts may be paid or cancelled at pleasure—that when a provision is not likely to be made for them, the discontents to be expected from the omission may honestly be transferred from a government able to vindicate its rights to the breasts of individuals who may first be encouraged to become the substitutes to the original creditors and may afterwards be defrauded without danger,*—if to national Union—national respectabili-

* To this charge in the American—the following note is appended by Hamilton: "Such was the advice given to Congress by Mr. Jefferson, when Minister Plenipotentiary to the Court of France, respecting the debt due to the French nation. *The precise terms* are not recollected, but the substance may be depended upon. The poor Hollanders were to be the victims."

ty—public order—and public credit they are willing to substitute national disunion; national insignificance, public disorder and discredit, then let them unite their declamations and plaudits in favor of Jefferson. Let him be the toast of every political Club, and the theme of every popular huzza."

The connection between the Secretary of State and the editor of the National Gazette being denied, a second number followed, showing the evasions of this denial, and distinctly charging, that the negotiation for its establishment was conducted by his "*very powerful, influential, and confidential* friend and associate."* Such a connection with the press, in a free country, was pronounced, "a pernicious precedent inconsistent with those pretensions to extraordinary republican purity, of which so suspicious a parade is upon every occasion exhibited."

Among other themes, that most dwelt upon by the opposition at this time was the augmentation of the debt. To repel this charge, Hamilton caused the Register to publish a series of "Authentic documents," exhibiting abstracts of the public accounts, showing, that of the Revolutionary debt nearly two millions had been paid, and that a large sum remained to be applied to farther purchases.†

This statement was controverted by "Mercator." A full confirmation of the facts and exposition of the operations of the Treasury was given by Hamilton under the signature of "Civis."

The exposure of Jefferson was deeply felt. The dis-

* Madison.—Madison and Freneau were fellow-collegians at Princeton College. See Hamilton's Works, v. 519, 520, 522.

† By referring to vol. i. American State Papers, p. 236, it will be seen that this application of the funds was dissented from in several instances by Jefferson.

closure that the National Gazette was under his control, it was much feared, would weaken its influence on the public mind, and might endanger him with the President. It drew upon Hamilton, who was supposed to be the author of it, a series of attacks increasing in virulence as they progressed.

Among these, one is deserving of notice as connected with the course of Hamilton in the Federal convention.

It called upon him, "to explain the public character, who, if uncontradicted fame is to be regarded, opposed the Constitution in the Grand Convention because it was *too Republican*, and advocated the *British Monarchy* as the *perfect standard* to be approached as nearly as the people could be *made to bear*."

Hamilton thus replied, "This, I affirm to be a gross misrepresentation. To prove it so, it were sufficient to appeal to a single fact, namely, that the gentleman alluded to, was the only member from the State to which he belonged who signed the Constitution, and it is notorious against the prevailing weight of the official influence of the State, and against what would probably be the opinion of a large majority of his fellow-citizens—till better information should correct their first impressions. How then can he be believed to have opposed a thing which he actually agreed to, and that in so unsupported a situation, and under circumstances of such peculiar responsibility?

"To this, I shall add two more facts; one, that the member in question never made a single proposition to the Convention which was not conformable to the Republican theory—the other, that the highest toned of any of the propositions made by him was actually voted for by the Representatives of several States, including some of the principal ones, and including individuals, who, in

the estimation of those who deem themselves the only Republicans, are pre-eminent for Republican character. More than this, I am not at liberty to say.

"It is a matter generally understood, that the deliberations of the Convention which were to be carried on in private, were to remain undisturbed; and every prudent man must be convinced of the propriety both of the one and the other. Had the deliberations been open while going on, the clamors of faction would have prevented any satisfactory result. Had they been afterwards disclosed, much food would have been afforded to inflammatory declamation. Propositions made without due reflection, and perhaps abandoned by the proposers themselves, on more mature reflection, would have been handles for a profusion of ill-natured accusation.*

"There are but two kinds of anonymous charges that can merit attention. Where the evidence goes along with the charge; and when reference is made to *specific* facts, the evidence of the truth or falsehood of which is in the power or possession of the party accused, and he at liberty to make free use of it. None of the charges brought forward in the present instance fall within either of these rules."

This allusion to the vote of Madison—the fact that every member of the Convention, excepting Franklin,

* Madison wrote thus on the 6th June, 1787, during the session of the Convention: "It was thought expedient in order to secure unbiassed discussion within doors and to prevent misconceptions and misconstructions without, to establish some rules of caution, which will for no short time restrain even a confidential communication of our proceedings." Again he wrote, July 18th, 1787: "I am still under the mortification of being *restrained* from *disclosing* any part of the proceedings. As soon as I am at liberty I will endeavor to make amends for this silence." He adds, he had taken lengthy notes and meant to go on with them. This restraint *never was removed* by the Convention, the only body that could remove it.

was then alive to confirm Hamilton's statement as to his course in that body, and the prompt denial of the charge against himself silenced every comment. Had the charge against him been true, would it not have been sustained by specific evidence, or if such evidence could not be adduced without a violation of faith, was not the unsustained and untrue charge a greater violation of faith?

A month elapsed after the publication of the Essay, signed "An American," before any reply. A formal defence of Jefferson was then attempted over the signature of "ARISTIDES," supposed to have been commenced by Madison, but continued by another hand.

Hamilton's answer to Jefferson's objections to the administration was dated the eighteenth of August. On the twenty-third of that month, immediately after receiving it, Washington wrote an urgent letter to Jefferson, deploring the schism which had arisen in the Cabinet—impressing the importance of mutual forbearance, and lamenting "the attacks which had been made upon almost all the members of government and most of its executive officers."

Jefferson's reply,* after adverting to the conduct of Spain, expatiated on the existing controversy with the Secretary of the Treasury. He stated, that when he embarked in the Government, "it was with a determination not to meddle at all with the Legislature and as little as possible with his co-departments. The first and only instance," referring to the assumption, he asserted, "he was duped into by the Secretary of the Treasury." This, he said, it had ever been his purpose to explain to him when both had "become uninterested *spectators* of the scene."

* Sept. 9, 1792. This reply is not published in the Randolph edition of Jefferson's works, but may be seen in Washington's Writings, x. 517. Appendix.

Why the explanation was deferred, and *never* after given to Washington is not explained.

As to the War department, he added, he had never intermeddled, and with the Treasury, only "by the mere enunciation of his sentiments in conversation, and chiefly among those, who, expressing the same sentiments, drew mine from me."

He denied, that he had ever "intrigued to defeat the plans of the Secretary of the Treasury." The truth of this denial is to be decided by his own recorded memoranda.*

He avowed his utter disapproval in private conversations, of Hamilton's system, as one which "flowed from principles adverse to liberty, and calculated to undermine and demolish the Republic, by creating an influence of his Department over the members of the Legislature;" "it being supported, *not* by the votes of the Representatives of the people, but, of deserters from the rights and interests of the people to enrich themselves." He asserted, that the doctrine contained in the Report on Manufactures as to the application of money was "to establish means of corruption, for the purpose of subverting, step by step, the principles of the Constitution, which its author had so often declared to be a thing of nothing, which must be changed."

On the other hand, he charged the Secretary of the Treasury, with interfering, beside in other instances, with his system as to France and England, "which was to give *some satisfactory distinctions* to the former *of little cost* in return for solid advantages yielded us by them; and to have met the English with *some* restrictions, which might induce them to abate their severities against our com-

* Jefferson's Works, iv. 458. Infra iv. 388–9.

merce," and that Hamilton had "*forced* down his own system which was exactly the reverse," that "these views, *thus made to prevail*," nevertheless had been sincerely executed by him.

He then entered upon a defence of his conduct as to the Constitution; averring, that his objection to it—was the want of a Bill of Rights—while Colonel Hamilton's was "that it wanted a King and House of Lords;" and though he had first thought four States would hold off for a Bill of Rights—yet when he saw Hancock's proposition to pass it as it stood, and give perpetual instructions to insist on a Bill of Rights, that he "advocated universal adoption."

He averred his ardent interest to see the debt soon and sacredly paid;—that "he would wish it paid to-morrow," but that Hamilton, "wishes it *never* to be paid, but always to be a thing wherewith to corrupt and manage the Legislature." That he never could have imagined that one who exerted so much influence by appointments to office should have brought forward a charge "for having appointed the poet Freneau translating clerk to his office with a salary of two hundred and fifty dollars a year." That he could "not recollect" whether, it was when the appointment was promised or afterwards, that he "was told he had a thought of setting up a Newspaper," but that he considered it as a *circumstance* of some value to enable him to bring *before the President*, "a juster view of the affairs of Europe than could be obtained from any other source," which he had unsuccessfully attempted to effect through other papers; one being too slow and another of too limited a circulation. He "protested in the presence of Heaven," that, except as to foreign intelligence, "he never did by himself or any other directly or indirectly, say a syllable, nor attempt any kind of in-

fluence" as to its course. And he further protested, in the same awful presence, that he never did, directly or indirectly, write, dictate, or procure one sentence or sentiment to be inserted in his or any other gazette, to which his name or that of his office was not prefixed—except a little paragraph as to the "Algerine Captives." That his expectations from his clerk's paper "looked only to the chastisement of the aristocratical and monarchical writers, and not to any criticisms on the proceedings of the Government."

"That Hamilton can see no motive for any appointment but that of making a convenient partisan,* while you who have received from me recommendations of a Rittenhouse, a Barlow and a Paine, will believe, that talents and science are sufficient motives with me in appointments to which they are fitted." He admitted that he had aided his clerk "by procuring subscriptions to his paper, some before it appeared."

He then stated his intention to retire when the President's first term should expire; "looking to that period with the longing of a wave-worn mariner;" and that "his main object during the residue of his term would be to wind up the business of his office—reserving until that

* The truth of this charge may be judged of by the following extract of a letter from Hamilton to Colonel Olney relating to the selection of a person as District Attorney of Rhode Island. "In addressing myself to you on the point, I proceed on an assurance of your judgment and candor. I request your ideas of the candidates fully and freely, promising that it shall not in any shape compromit you. Be so good as to state not only the qualifications of each, but the collateral circumstances affecting the public service which will be likely to attend the appointment of either. *It is regretted, that the affair has assumed so much a party complexion.* This suggests an enquiry, whether there be not *some third character* competent, eligible, and *who would not be liable to a similar difficulty.* The more speedy your *answer*, the more it will oblige." A copy of a letter is also in existence in which Hamilton offered to Major Armstrong the place of Supervisor of the Revenue.

time, his defence under his own name by a public appeal, which he hoped would not be necessary."

"Conscious of his title to esteem from his integrity and an enthusiastic devotion to the rights and liberty of his countrymen," he declared, that "he would not suffer his retirement to be clouded by the slanders of a man, whose history from the moment at which history can stoop to notice him, is a tissue of machinations against the liberty of the Country, which has not only received and given him bread, but heaped its honors on his head." This of the man whom subsequently, he designated, as "one of the great of the World."

"As he had not by cabals, intrigues, or writing promoted dissensions, he hoped he might promise that no aliment to them would be received from him during his short duration in office."

Previously to any communication from the President on the subject of his proposed retirement, Randolph had written to him urging his continuance in office, observing as to the alleged public discontents, "Can any new project" (of Finance) "be suggested free from blemish? Have not the clamors of the people concerning the assumption subsided? Can any tax be substituted for the Excise, without rekindling those very complaints, which the Excise has generated, but which have now almost died away?" He urges the danger of attacking the irredeemable quality of the debt, "particularly as we are free to wipe it off according to our stipulations," as fast as "our present ability." "Is this chance of advantage" (from a change) "a sufficient temptation to hazard our half pledged reputation?" "What would you say, Sir, if for this purpose a land tax should be laid by Congress, which shall not take effect unless the States should neglect to raise the money by their own laws? I think it

would soon be discovered, that such a measure would insensibly restore requisitions." He urged his continuance in office. "Those Federalists who can espouse Mr. Clinton against Mr. Adams, as Vice President, will not hesitate at a more formidable game.* Should a civil war arise, you cannot stay at home." Washington deplored in reply the schism in the Cabinet.

The letter of Jefferson shows the mortification he suffered from Hamilton's predominance in the public councils, especially as to foreign affairs, and how sore were the wounds inflicted by the recent exposure of his intrigues.

Washington also wrote to the Head of the Treasury, regretting the asperities which existed, and that more charity was not exercised. He urged mutual forbearance and temporizing, yielding on all sides. "How unfortunate," he said, "if a fabric so goodly, erected under so many providential circumstances, and in its first stages having acquired such respectability, should from diversity of sentiments or internal obstructions to some of the acts of government, (for I cannot prevail on myself to believe, that these measures are as *yet*, the deliberate acts of a determined party) be brought to the verge of dissolution."

The same day on which Jefferson replied to the President from Monticello, Hamilton wrote to him from Philadelphia. In his letter are seen no apologies, no protestations, no evasions, not a word of invective, an avowal of his intention to pursue the exposure for the *present*, which had become necessary to sustain the charges which had been made—no pretended desire to resign, but an explicit opinion, unless the differences were healed, that "the period was not remote when the public good will require substi-

* Washington's Writings, x. 512.

tutes for the differing members of the administration;" and a pledge of his faithful concurrence in any plan of reunion upon some steady principle of co-operation, though he declared that he considered "himself as the deeply injured party."

"PHILADELPHIA, Sept. 9th, 1792.—Sir:—I have the pleasure of your private letter of the twenty-sixth of August.

"The feelings and views which are manifested in that letter are such as I expected would exist. And I most sincerely regret the causes of the uneasy sensations you experienced. It is my most anxious wish, as far as may depend upon me, to smooth the path of your administration, and to render it prosperous and happy. And if any prospect shall open of healing or terminating the differences which exist, I shall most cheerfully embrace it, though I consider myself as the deeply injured party. The recommendation of such a spirit, is worthy of the moderation and wisdom which dictated it, and if your endeavors should prove unsuccessful, I do not hesitate to say, that, in my opinion, the period is not remote when the public good will require SUBSTITUTES for the DIFFERING MEMBERS of your administration. The continuance of a division there must destroy the energy of Government which will be little enough with the strictest union. On my part, there will be a most cheerful acquiescence in such a result.

"I trust, Sir, that the greatest frankness has always marked, and will always mark every step of my conduct towards you. In this disposition I cannot conceal from you that I have had some instrumentality of late in the retaliations which have fallen upon certain public characters, and that I find myself placed in a situation *not to be able to recede for the present.*

"I consider myself as compelled to this conduct by reasons public as well as personal of the most cogent nature. I *know* that I have been an object of uniform opposition from Mr. Jefferson, from the first moment of his coming to the City of New York, to enter upon his present office; I *know* from the most authentic sources, that I have been the frequent subject of the most unkind whispers and insinuations from the same quarter. I have long seen a formed party in the Legislature, under his auspices, bent upon my subversion. I cannot doubt from the evidence I possess that the National Gazette was instituted by him for political purposes, and that one leading object of it has been to render me and all the measures connected with my department, as odious as possible.

"Nevertheless, I can truly say, that, except explanations to confidential friends, I never directly or indirectly retaliated or countenanced retaliation till very lately. I can even assure you, that I was instrumental in preventing a very severe and systematic attack upon Mr. Jefferson, by an association of two or three individuals, in consequence of the persecution, which he brought upon the Vice President, by his indiscreet and light letter to the printer, transmitting *Paine's* pamphlet.

"As long as I saw no danger to the Government from the machinations which were going on, I resolved to be a silent sufferer of the injuries which were done me. I determined to avoid giving occasion to any thing which could manifest to the world dissensions among the principal characters of the Government, a thing which can never happen without weakening its hands, and in some degree throwing a stigma upon it.

"But when I no longer doubted, that there was a formed party deliberately bent upon the subversion of measures, which in its consequences would subvert the

Government;—when I saw that the undoing of the funding system in particular, (which, whatever may be the original merits of that system, would prostrate the credit and the honor of the Nation; and bring the Government into contempt with that description of men, who are in every society the only firm supporters of Government) was an avowed object of the party; and that all possible pains were taken to produce that effect by rendering it odious to the body of the people, I considered it as a duty to endeavor to resist the torrent, and as an essential mean to this end, to draw aside the veil from the principal Actors. To this strong impulse, to this decided conviction, I have yielded.—And I think events will prove that I have judged rightly.

"Nevertheless, I pledge my honor to you, Sir, that if you shall hereafter form a plan to reunite the members of your Administration, upon some steady principle of cooperation, I will faithfully concur in executing it during my continuance in office. And I will not directly or indirectly say or do a thing that shall endanger a feud.

"I have had it very much at heart to make an excursion to Mount Vernon, by way of the Federal City in the course of this month—and have been more than once upon the point of asking your permission for it. But I now despair of being able to effect it. I am nevertheless equally obliged by your kind invitation.

"The subject mentioned in the Postscript of your letter shall with great pleasure be carefully attended to. With the most faithful and affectionate attachment, &c."

CHAPTER LXXX.

It has been observed, that a formal defence of Jefferson had been commenced over the signature of "Aristides," which from its style and terms, Hamilton was convinced proceeded from the pen of Madison.

In this defence, the charge of Jefferson's vacillation as to the adoption of the Constitution is sought to be disproved by reference to the speech of Pendleton in the Virginia Convention. That, as to his advice as to the French Debt, is pronounced a charge "which involving no small degree of moral turpitude will render the accused, if guilty, unworthy of the confidence of his fellow-citizens;" and the accuser is called upon to substantiate it "by a recital of the precise terms of the advice," as the paragraph quoted against Jefferson had been mutilated.

Notwithstanding the assurance of Jefferson to the President, that no further aliment of discussion would come from him—yet the first number of his Gazette, which appeared three days after the date of this assurance, contained an attack upon the Secretary of the Treasury.

This was sufficient to confirm the intention which Hamilton had avowed to Washington of not "receding."

The defence by "Aristides" called him out over

the signature of "Catullus," in a series extending to six essays.

The first * of these, while the impropriety of a personal affair was admitted, opened with a declaration that the author of it was willing to be responsible for his remarks, and would not refuse on proper terms to be known to the Secretary of State. Hamilton then called attention to the fact, that his defender had passed over in total silence the leading accusation, that Jefferson was the institutor and patron of a Gazette, the tendency of which was, "to depreciate the Government, to misinterpret and traduce the administration of it," except his own department, implicating in the most virulent censure the majorities of both Houses of Congress, the other two departments; not sparing even the President; and that, to support a paper thus hostile to the Government, in the administration of which he held so important a trust, he had applied the money of the Government.

He then proceeded to state the grounds on which the charge of the connection between Jefferson and the National Gazette was made; and mentioned that documents were in his possession which ascertained the person who was the medium of the negotiation.†

In reference to one ground of the defence with respect to this connection, he observed, "Deception however artfully veiled, seldom fails to betray some unsound part.—Aristides assures us, that Mr. Jefferson *has actually refused* in any instance to mark a single paragraph which appeared in the foreign prints for republication in the Na-

* Hamilton's Works, vii. 34. Sept. 15, 1792.

† Hamilton's Works, v. 519, 521. Jefferson to T. M. Randolph, jr., Nov. 16, 1792. "Freneau's paper is getting into Massachusetts *under the patronage of Hancock* and *Samuel Adams*, and Mr. Ames, the Colossus of Monocrats and the paper men, will either be left out or hard run."

tional Gazette. On what ground was such an application made, if he was not considered as the patron of the paper? What printer would make a similar application to the head of any other department? I verily believe none.

"The refusal, if it ever happened, is one of those little underplots with which *the most intriguing man in the United States* is at no loss, to keep out of sight the main design of the drama." *

The second number reviewed Jefferson's course as to the Constitution, showing from Madison's remarks in the Convention of Virginia the correctness of this charge; and that while Madison on that occasion confessed his knowledge of Jefferson's sentiments, he avoided disclosure,

* Madison writes, Dec. 18, 1791, stating that he had received and handed over subscriptions to Freneau, and approves the paper. Sept. 13, 1792, Madison writes Edmund Randolph, showing his agency in employing him, and the fact that he (Freneau) was recommended by him to another department,—where it would be convenient to have introduced him and by which he was rejected. "That I wished," he wrote, "and recommended Mr. Freneau to be appointed to his present clerkship is certain, but the department of State was not the only nor, as I recollect, the *first one* to which I mentioned his name and character. I was governed in these recommendations by an acquaintance of long standing—by a respect for his talents, and by a knowledge of his merits and sufferings in the cause of the Revolution." He admits, that he urged his being transferred to Philadelphia from New York.—"When I first saw the publication," (by Hamilton), he adds, "I was half disposed to meet it with a note to the printer with my name subscribed. I was thrown into *suspense* however by reflecting, that as I was not named, and was only *incidentally* brought into view, such a step might be precipitate, if not improper, in case the principal should not concur in such a mode of vindication.—2. That I was not enough acquainted with *the turn the thing might take* and the *light in which it might be viewed on the spot.*—3. That, in a case the least doubtful, prudence would not rush into the newspapers. These considerations have been since sanctioned by the opinion of two or three judicious and neutral friends, whom I have consulted. The part finally proper remains to be decided, and in that I shall always be thankful for the ideas of my friends, most in a condition to judge."

"wrapping the matter in mysterious reserve, and leaving the public to conjecture what was the precise import of the sentiments communicated;" and that, at first, "he discountenanced its adoption, though he afterwards recommended it on the ground of expediency on certain contingencies." The note appended to the "American," stating that "the *precise terms* of the advice respecting the French debt are not recollected, but that the substance may be depended upon," had prompted the call of "Aristides" to substantiate it by a recital of "the *precise terms* of the advice." It was believed, that this call, could not be met. In answer, Hamilton, in the next place, gave an extract of Jefferson's letter to the Secretary of Foreign Affairs,* in confirmation of the charge of turpitude in his advice as to the transfer of the debt due to France to a company of private individuals in Holland.

It was followed by this comment, "Here is no complicated problem which sophistry may entangle or obscure. Here is a plain question of moral feeling. A government is encouraged on the express condition of *not having* a *prospect* of making a due provision for a debt which it owes, to concur in a transfer of that debt from a Nation well able to bear the inconveniences of failure or delay, to individuals whose total ruin might have been the consequence of it, and that upon the *interested* consideration of having need of the good-will of the Creditor nation, and with the dishonorable motive, as is clearly implied, of having more to apprehend from the discontents of that Nation; than from those of disappointed and betrayed individuals." "Let," he said, "every honest and impartial mind, consulting its own spontaneous emotions, pronounce for itself on the rectitude of such a

* Ante, vol. iii., 91 to 95.

suggestion; and let '*Aristides*' prove, if he can, that Mr. Jefferson gave advice, "expressly contrary to that which has been ascribed to him.' "Say"—'Aristides'—"did the character to whom you are so partial, imitate in this case the sublime virtue of that venerable Athenian, whose name you have assumed? Did he dissuade his countrymen from adopting a proposition, because, 'though nothing could be more advantageous,—nothing could be more unjust.' Did he not rather advise them to do what was both disadvantageous and unjust? May he not as a public man, discard all apprehension of *ostracism* for being the superlatively just?"*

The third number took a larger scope. It distinguished between an opposition to the Financial system *before* and *after* its establishment.

The former was condemned, as "calculated to sow the seeds of discord in the Executive branch of the Government, in the infancy of its existence;" as to the latter, he remarked, "But when his opposition extended beyond that point; when it was apparent, that he wished to *render odious* and of course to *subvert* (for in a popular government these are convertible terms), all those deliberate and solemn acts of the Legislature which had become the

* Hamilton's persevering objections to this proposed transfer to individuals are shown in his letters to Short; and, by referring to Jefferson's works, iii., 253, ed. 1854, it will be seen, he was *obliged* officially to *disapprove* the measure he had so often before *approved*.—"Under these dispositions and prospects," he writes, "it would grieve us extremely to see our debt pass into the hands of speculators, and be subjected ourselves to the chicaneries and vexations of private avarice. We desire you, therefore, to dissuade the government, as far as you can prudently, from listening to any overtures of that kind, and, as to the speculators themselves, whether native or foreign, to inform them without reserve, that our government condemns their projects, and reserves to itself the right of paying no where but into the treasury of France, *according to their contract.*"

pillars of the public credit, his conduct deserved to be regarded with a still severer eye. To set afloat the funding system, after the faith of the Nation had been so deliberately and solemnly pledged to it, after such numerous and extensive alienations of property for full value have been made under its sanction, with adequate revenues little burthensome to the people, in a time of profound peace, with not even the shadow of any public necessity; —on no better ground, than that of theoretical and paradoxical dogmas, would be one of the most wanton and flagitious acts, that ever stained the annals of a civilized nation." Yet such he charged, and adduced the evidence of his charges, was the design of the Secretary of State.

"The consequences would be National discredit, insignificance, and disorder—DISUNION—for the Country would be left an easy prey by the virtuous to its enemies—the advocates for separate confederacies; the jealous partisans of unlimited sovereignty in the State governments—the never to be satiated lovers of innovation and change —the tribe of pretended philosophers, but real fabricators of chimeras and paradoxes—the Catalines and Cæsars of the community, (a description of men to be found in every Republic,) who leading the dance to the tune of liberty without law, endeavor to intoxicate the people with delicious but poisonous draughts, to render them the easier victims of their rapacious ambition—the vicious, and the fanatical of every class, who are ever found the willing or the declared followers of those seducing and treacherous leaders."

After giving the evidence of Jefferson's intrigues, Hamilton proceeded with a brilliant contrast of his own views, and those of the Secretary of State. "The remaining circumstance of public notoriety which fixes upon Mr. Jefferson the imputation of being the prompter or instiga-

tor of detraction, exists in his patronage of the National Gazette.

"Can any attentive reader of that Gazette doubt for a moment that it has been systematically devoted to the calumniating and blackening of public characters? Can it be a question, that a main object of the paper is to destroy the public confidence in a particular public character, who it seems is to be *hunted down* at all events, for the unpardonable sin of having been the steady, invariable, and decided friend of broad rational principles in government? Can it be a question, that the persecution of the officer alluded to, is agreeable to the views of the institutor of the paper?

"Does all this proceed from motives purely disinterested and patriotic? Can none of a different complexion be imagined, that may at least have operated to give a *stimulus* to *patriotic* zeal.

"No—Mr. Jefferson has hitherto been distinguished as the quiet, modest, retiring philosopher,—as the plain, simple, unambitious republican. He shall not now, for the first time, be regarded as the intriguing incendiary—the aspiring turbulent competitor.

"How long it is, since that gentleman's real character may have been divined, or whether this is only the *first time* that the *secret* has been disclosed, I am not sufficiently acquainted with the history of his political life to determine. But there is always 'a *first time*' when characters studious of artful disguises are unveiled—when the vizor of stoicism is plucked from the brow of the Epicurean, when the plain garb of Quaker simplicity is stripped from the concealed voluptuary; when Cæsar *coyly refusing* the proffered diadem is seen to be *Cæsar* rejecting the trappings, but tenaciously grasping the substance of imperial domination."

"It is not unusual to defend one post, by attacking another. 'Aristides' has shown a disposition to imitate this policy. He, by clear implication, tells us—and doubtless means it as a justification of the person whom he defends—that attachment to *aristocracy, monarchy, hereditary succession,* a *titled order of nobility,* and all the *mock pageantry* of Kingly Government form the *appropriate* and *prominent* features in the character to which he boasts Mr. Jefferson's opposition, and which it seems to be a principal part of the business of his Gazette to depreciate.

"This is no more than what has been long matter for malevolent insinuation. I mistake, however, the man, to whom it is applied, if he fears the strictest scrutiny into his political principles and conduct, if he does not wish there 'were windows in the breast,' and that assembled America might witness the inmost springs of his public actions. I mistake him, however a turn of mind, less addicted to dogmatizing than reasoning, less fond of hypotheses than experience, may have led to speculative doubts concerning the probable success of the Republican theory—if he has not uniformly and ardently, since the experiment of it began in the United States, *wished* it success—if he is not sincerely desirous that the sublime idea of a perfect equality of rights among Citizens, exclusive of hereditary distinctions, may be practically justified and realized; and if, among the sources of the regret which his language and conduct have testified, at the overdriven maxims and doctrines that too long withstood the establishment of firm government in the United States, and now embarrass the execution of the Government which has been established, a *principal one* has not been, their tendency to counteract a *fair trial* of the theory, to which he is represented to be adverse. I mistake him, if his measures, proceeding upon the ground of a liberal and efficient

exercise of the powers of the National Government, have had any other object than to give to it stability and duration, the only solid and rational expedient for preserving republican government in the United States."

Having sustained the original charges, Hamilton, in fulfilment of the purpose announced to the President, resolved, after stating his view of the proper course to be pursued between differing members of a Cabinet, to close the discussion.

This view was given in an article signed "Metellus." *

"The votaries of Mr. Jefferson, whose devotion for their idol kindles at every form in which he designs to present himself, have deduced matter of panegyric from his opposition to the measures of the Government. 'Tis, according to them, the sublimest pitch of virtue in him, not only to have extra-officially embarrassed plans, originating with his colleagues in the course of their progress, but to have continued his opposition to them, after they had been considered and enacted by the Legislature, with such modifications as appeared to them proper; and had been approved by the Chief Magistrate. Such conduct, it seems, marks a firm and virtuous independence of character. If any proof was wanting of that strange inversion of the ideas of decorum, propriety and order, which characterizes a certain party, this making a theme of encomium of what is truly a demonstration of a caballing, self-sufficient, and refractory temper would afford it.

"In order to show that these epithets have not been misapplied, I shall endeavor to state what course a firm and virtuous independence of character guided by a just and necessary sense of decorum, would dictate to a man in the station of Mr. Jefferson.

* October 24, 1792.

"This has been rendered more particularly requisite, by the formal discussion of the point, which appears to be the object of a continuation of a defence of that Gentleman, in the American Daily Advertiser of the tenth instant.

"The position must be reprobated, that a man who had accepted an office in the Executive Department, should be held to throw the weight of his character into the scale, to support a measure, which in his *conscience* he *disapproved*, and *in his station had opposed*; or that the members of the Administration should form together a *close and* secret combination, into whose measures the profane eye of the public should in no instance pry.

"But there is a very obvious medium between *aiding* or *countenancing*, and *intriguing* and *machinating* against a measure; between opposing it in the discharge of any official duty, or volunteering an opposition to it in the discharge of no duty: between entering into a close and secret combination with the other members of an administration, and being the active leader of an opposition to its measures.

"The true line of propriety appears to me to be the following:

"A member of the Administration, in one department ought only to *aid* those measures of another, which he approves;—where he disapproves, if called upon to *act officially*, he ought to manifest his disapprobation, and avow his opposition, but out of an official line he ought not to interfere, *as long as he thinks fit to continue a part of the administration.* When the measure in question has become the law of the land, especially with a direct sanction of the Chief Magistrate, it is peculiarly his duty to acquiesce. A contrary conduct is inconsistent with his relations as an officer of the Government, and with

a due respect, as such, for the decisions of the Legislature, and of the Head of the Executive Department. The line here delineated, is drawn from obvious and very important considerations. The success of every government—its capacity to combine the exertion of public strength with the preservation of personal right and private security—qualities which define the perfection of a government, must always naturally depend on the energy of the Executive Department. This energy again must materially depend on the union and mutual deference which subsist between the members of that department and the conformity of their conduct with the views of the Executive chief.

"Difference of opinion between men engaged in any common pursuit, is a natural appendage of human nature. When only exerted *in the discharge of a duty*, with delicacy and temper, among liberal and sensible men, it can create no animosity; but when it produces officious interferences, dictated by no call of duty; when it volunteers a display of itself in a quarter, where there is no responsibility, to the obstruction and embarrassment of one who is charged with an immediate and direct responsibility, it must necessarily beget ill-humor and discord between the parties.

"Applied to the members of the Executive administration of any Government, it must necessarily tend to occasion, more or less, distracted Councils, to foster factions in the community, and practically to weaken the Government.

"Moreover the heads of the several Executive departments are justly to be viewed as auxiliaries to the Executive chief. Opposition to any measure of his, by either of those heads of departments—except in the shape of frank, firm and independent advice to himself, is evi-

dently contrary to the relations which subsist between the parties. And it cannot well be controverted that a measure becomes his, so as to involve the duty of acquiescence on the part of the members of his administration, as well by its having received his sanction in the form of a law, as by its having previously received his approbation.

"In the theory of our Government, the Chief Magistrate is himself responsible for the exercise of every power vested in him by the Constitution. One of the powers entrusted to him, is that of objecting to bills which have passed the two branches of Congress. This supposes the duty of objecting when he is of opinion that the object of any bill is either *unconstitutional* or *pernicious*. The approbation of a bill implies, that he does not think it either the one or the other. And it makes him responsible to the community for this opinion: The measure becomes his by adoption, nor could he escape a portion of the blame, which should finally attach itself to a bad measure, to which he had given his consent.

"I am prepared for some declamation against the principles which have been laid down. Some plausible flourishes have already been indulged, and it is to be expected, that the public ear will be still further assailed with the common place topics, that so readily present themselves, and are so dexterously retailed by the traffickers in popular prejudice. But it need never be feared to submit a solid truth to the deliberate and final opinion of an enlightened and sober people.

"What, (it will probably be asked) is a man to sacrifice his conscience and his judgment to an office? Is he to be a dumb spectator of measures which he deems subversive of the rights or interests of his fellow-citizens? Is he to postpone to the frivolous rules of a false complaisance, or the arbitrary dictates of a tyrannical de-

corum, the higher duty which he owes to the Community?

"I answer, No! he is to do none of these things. If he cannot coalesce with those, with whom he is associated, as far as the rules of official decorum, propriety and obligation may require, without abandoning what he conceives to be the true interest of the community, let him place himself in a situation in which he will experience no collision of opposite duties, let him not cling to the honor or emolument of an office whichever it may be that attracts him, and content himself with defending the injured rights of the people by obscure or indirect means. Let him renounce a situation which is a clog upon his patriotism; tell the people that he could no longer continue in it without forfeiting his duty to them, and that he had quitted it to be more at liberty to afford them his best services.

"Such is the course which would be indicated by a firm and virtuous independence of character. Such the course that would be pursued by a man attentive to unite the sense of delicacy with the sense of duty—in earnest about the pernicious tendency of public measures, and more solicitous to act the disinterested friend of the people, than the interested ambitious and intriguing head of a party."

The impression made by Hamilton upon Washington's mind, it has been seen, had induced him to hesitate as to his purpose of declining a re-election. Still he had given no public disclosure of his views. It was hoped by Jefferson, that he might yet decide to retire; if not, it was highly important to learn his final decision, in order to determine the course to be pursued with respect to the selection of a candidate for the Vice Presidency in opposition to Adams.

With this view he made a visit to the President. He thus writes to Madison on the first of October. "I proceeded to Mount Vernon and had a full, free and confidential conversation with the President, the particulars shall be communicated when I see you. He declares himself quite undecided about retiring, desirous to do so, yet not decided, if strong motives against it exist. He thinks, if he declares a month before the election, it will be sufficient. Consequently that he may make his declaration even after the meeting of Congress." In that extraordinary production, entitled "Anas," Jefferson has given what purports to be the conversation alluded to. He here represents himself as urging the President to consent to a re-election, avowing at the same time his own purpose to retire from office. "I had constantly kept my eye on my own home and could no longer refrain from returning to it." An allusion to the Cabinet differences followed; Washington observing, "That as to the idea of transforming this government into a monarchy, he did not believe there were *ten* men in the United States whose opinions were worth attention, who entertained such a thought." "I told him," Jefferson relates, "that, though the people were sound, there were a numerous sect who had monarchy in contemplation, that the Secretary of the Treasury was one of these." After pressing this statement, the financial system was discussed, and the dangerous influence it had given Hamilton was urged by him.

This made little impression upon the President, who observed, "Some thought the funding system very bad, others very good; that experience was the only criterion of right which he knew, and this alone would decide which opinion was right. That for himself, he had seen our affairs desperate and credit lost, and that this was, in

a sudden and extraordinary degree, raised to the highest pitch. I told him all that was ever necessary to establish our credit, was an efficient government and an honest one, declaring it would sacredly pay our debts, laying taxes for this purpose, and applying them to it." "He finished by another exhortation to me not to decide too positively on retirement." *

The failure to induce the President to decline a re-election was embarrassing. Could that have been accomplished, as the Constitution then stood, Jefferson might indulge not a little hope he would be chosen his successor. At the first election, Adams had less than a majority of the votes. His popularity had not increased since he was placed at the head of the Senate. It was believed, that he would receive a reluctant support from several of the most influential Federalists.

The determination of Washington changed the whole aspect of the question.

It removed all competition as to the first office in the Government; and the provision of the Constitution, that "one of the persons voted for by the electors of each State should not be an inhabitant of the same State with themselves," as it confined the votes of Virginia to Washington, excluded Jefferson from the second office.

Clinton had been a candidate at the previous election. In the approaching canvass, it was intended, had Washington withdrawn, that he should be supported to secure the votes of New York. This motive no longer existed. It was no part of Jefferson's policy seriously to advance the interests of Clinton. Being himself excluded, it would best promote his ulterior views † to give to the Governor

* Jefferson's Works, iv. 469.

† Among the papers distinguished by Jefferson, as his "marble covers," a memorandum is seen, made by himself. 1792, Dec. 13.—"The President gave him an intimation that he meant to retire *within two years*."

of New York the appearance of aid, and at the same time to guard against any contingency by which he might succeed. To avoid giving him offence, it was necessary to make a show of support. With this view, a short time before the election, too late to produce any effect, a comparison was instituted between his merits and those of Adams. It was not pursued far, and was in a feeble tone.

The election of the Governor in New York had shown a majority against Clinton. Burr now hoped, with such federal aid as he might secure, to gain the electoral vote of that State. Expectations were also indulged of success in Connecticut and in Pennsylvania. He thought he had some interest in South Carolina. Overtures were made to Maryland and to Virginia.*

So strong a front, his sanguine ambition imagined, might attract the support of the latter State, and of her then satellites, Kentucky and North Carolina.†

Intimations of his designs excited serious alarm among

* Monroe, Oct. 9, 1792, referring to a letter from Smith and Willett of New York to himself and Madison, writes, "It proposes to substitute Mr. Burr to Governor Clinton as the candidate of the Republican interest in the contest for the office of Vice President." This he disapproves, but adds, "I should not hesitate to aid Burr in opposition to Adams."

† The danger apprehended from a Northern candidate is seen in the following lines from Edmund Randolph to Madison: "First, The object to be attained is the final success of——. 2. For this purpose Chief Justice Jay is to be thwarted at all events. 3. If this can be effected in no other way, than by a present competition from Clinton, let it be done, as a lesser evil. 4. But, if Chief Justice Jay should not be run, where can be the necessity of having recourse to an avowed enemy? I feel a repugnance to Clinton as an individual whom I have contemplated at a distance. But when I consider, what the consequences will be in Virginia, particularly, I groan at submission, even when it is to repel a worse man. 5. If therefore Ch. J. Jay should not appear on the turf, why not P.—— be started—rudis indigesta que moles."—May 11, 1792.

the Federalists. One of these wrote to Hamilton: "If the enemies of the government are secret and united, we shall lose Mr. Adams. Burr is industrious in his canvass, and his object is well understood. Dallas informs me that he will be supported in Pennsylvania. Should Jefferson and his friends unite in the project, the votes for Adams may be so reduced, that, though more numerous than those for any other person, he may decline the office. Nothing which has heretofore happened so decisively proves the inveteracy of the opposition." *

This information determined Hamilton to depart from his resolution to avoid all personal interference in the election.

Nearly balanced as parties were in the Senate, he saw that his fiscal system would be endangered. He also knew that there was just ground of apprehension, lest the probability of Burr's success as Vice President might induce Washington to withdraw from the canvass. Swayed by these high considerations, he immediately wrote to his friends, "Though in my situation I deem it most proper to avoid interference in any matter relating to the elections for members of the Government, yet, I feel reasons of sufficient force to induce a departure from that rule in the present instance. Mr. Burr's integrity as an individual is not unimpeached. As a public man he is one of the worst sort—a friend to nothing but as it suits his interests and ambition.—Determined to climb to the highest honors of the State and as much higher as circumstances may permit, he cares nothing about the means of effecting his purpose. 'Tis evident that he aims at putting himself at the head of what he calls the 'popular party,' as affording the best tools for an ambitious

* King to Hamilton, 17th Sep. 1792

man to work with. Secretly turning Liberty into ridicule, he knows as well as most men how to make use of the name. In a word, if we have an embryo Cæsar in the United States, 'tis Burr."

To another friend, he observed, "I fear the other gentleman (Burr) is unprincipled, both as a public and private man. When the Constitution was in deliberation his conduct was equivocal; but its enemies, who, I believe best understood him, considered him as with them. In fact, I take it, he is for or against a thing, but as it suits his interest or ambition. He is determined, as I conceive, to make his way to be the head of the popular party and to climb *per fas aut nefas* to the highest honors of the State, and as much higher as circumstances may permit. Embarrassed, as I understand, in his circumstances—with an extravagant family—bold, enterprising, and intriguing, I am mistaken if it be not his object to play the game of confusion; and I feel it a religious duty, to oppose his career. Mr. Adams is the man who will be supported by the friends of the government. They reason thus: Mr. Adams, like other men, has his faults and foibles,—some of the opinions he is supposed to entertain, we do not approve, but we believe him to be honest, firm, faithful and independent—a sincere lover of his country—a real friend to genuine liberty; but combining his attachment to that with love of order and stable government. No man's private character can be fairer than his. No man has given stronger proofs than him of disinterested and intrepid patriotism! As to Mr. Clinton, he is a man of narrow and perverse politics, and as well, under the former as under the present government, he has been steadily, since the termination of the war with Great Britain, opposed to national principles. Some say one or both of these (Clinton and Burr) will be

played off as a diversion in favor of Jefferson. There was a time when I should have balanced between Jefferson and Adams; but I now view the former, as a man of sublimated and paradoxical imagination, cherishing notions incompatible with regular and firm government."

"The ensuing session will be an interesting one, and the next Congress will either anchor the government in safety, or set it afloat." *

This earnest interposition dissipated the hopes of Burr. He relinquished the contest. His services in sustaining the decision of the Canvassers had been important. The relinquishment of his pretensions to the Vice Presidency was regarded as a merit, and hence his appointment, as previously stated, by Clinton, as a judge of the Supreme Court of New York.

An intimation that the Vice President intended to defer taking his seat in the Senate, prompted Hamilton to address him this characteristic letter: "I trust you are sufficiently convinced of my respect for and attachment to you, to render an apology for the liberty I am going to take unnecessary. I learn with pain that you may not probably be here till late in the session. I fear that this will give some handle to your enemies to misrepresent, and, though I am persuaded you are very indifferent, personally, in the event of a certain election; yet I hope you are not so as regards the cause of good government. The difference in that view, is, in my conception, immense between the success of Mr. Clinton or yourself, and some sacrifices of feeling are to be made. But this is not the only relation in which I deem your early presence here desirable. Permit me to say, it best suits the firmness and elevation of your character to meet all

* Hamilton's Works, v. 534. Oct. 15, 1792.

events, whether auspicious or otherwise, on the ground where station and duty call you. One would not give the ill-disposed the triumph of supposing that an anticipation of want of success has kept you from your post.

"You observe, my dear sir, I speak without much ménagement. You will ascribe it to my confidence and esteem. It is not necessary in any view to multiply words. I forbear it; but allow me to add, that it is the universal wish of your friends you should be as soon as possible at Philadelphia."

CHAPTER LXXXI.

While exerting his influence to prevent the election of Burr, and while the controversy with Jefferson was pending, Hamilton was compelled, by the increasing opposition to the collection of the Excise, to take a position from which he was very averse.

In Jefferson's letter to the President, one of the charges preferred against Hamilton was his being the author "of a system of taxation which committed the authority of Government in parts where resistance was most probable; and coercion least practicable." He well knew the reluctance which would be felt by Washington to resort to coercion, and mistaking his character, supposed that, rather than incur the unpopularity of enforcing the laws, he might sacrifice the originator of them, or withdraw from a scene of turbulence and tumult.

It has been seen, that, by an act passed at the last Session of Congress, great modifications were made in the original law for the collection of the duties on spirits, and that they were so much reduced as ought to have silenced all complaints on that ground.*

This amending act in its progress through the National

* The National Excise imposed two pence per gallon lower than the Pennsylvania laws imposed, at the time of the adoption of the Constitution.

Legislature engaged the particular attention of members, who themselves were interested in distilleries; and of others, who represented parts of the country in which they were numerous.

The "objections," as Hamilton officially stated, "were well considered, and great pains were taken to obviate all such as had the semblance of reason."

The effect of these amendments corresponded in a great measure with the views of Congress. "Opposition subsided in several districts where it before prevailed; and the hope was indulged, that the refractory parts of Pennsylvania would gradually acquiesce in the execution of the law."

But this remote region, only ten years before the scene of a cruel massacre and burning of Indians by the whites,* was under the influence of a man whom Hamilton characterized, as the most "subtile and implacable" enemy of the Administration; a correspondent of Jefferson,† of men who rarely acted without forecast; and who were subsequently rewarded with his fullest confidence.

The first excise law had "left the number and positions of the officers of inspection" for each district, "to the discretion of the supervisor."

* A party from the Monongahela (March 8, 1782) after a deliberate council of the previous evening, dragged ninety-six Indians, sixty-two men and women, *thirty-four children*, with ropes about their necks, into two houses, and felled them to the ground. One person, with a cooper's mallet, killed fourteen. The two buildings, (into which they were dragged,) "were then fired, as were all the other houses." They stole the horses, furs and skins, and sold them by "vendue among themselves."—April 16, 1786, "A mob took his commission from a *State Excise* officer, cut the hair from one side of his head, and carried him to Findley's County (Westmoreland). Tarring and feathering were the threatened modes of prevention. "The Western Insurrection," pp. 144, 150, by Townsend Ward, Esq.

† Albert Gallatin.

"The second, to secure a due accommodation to distillers, provided peremptorily, that there should be one in each county."

"The idea was immediately embraced that it was a very important point in the scheme of opposition to the law, to prevent this being effected." For this purpose the intimidation of well-disposed inhabitants was added to the plan of molesting and obstructing the officers by force. The certain destruction of property and the peril of life being involved, "it became almost impracticable to obtain suitable officers, and when obtained, they found it a matter of necessity, in almost every instance, to abandon them."

An address, explaining the law and seeking to reconcile the discontented, which was attributed to the Secretary of the Treasury, was widely circulated. But it was without effect; and the information received left no doubts in Hamilton's mind as to the course to be pursued. In a letter to Washington, communicating the arrangement of compensations, to the officers of inspection, under the late act, he stated, that discontents as to the Excise had been produced in other regions by the disobedience of some, and urged a vigorous exertion of the law in the delinquent scenes. "If," the President replied, "after these regulations are in operation, opposition is still experienced, and peaceable procedure is no longer effectual; the public interest and my duty will make it necessary to enforce the laws respecting this matter; and however disagreeable this would be to me, it must nevertheless take place."

In answer,* Hamilton remarked: "It affords me much satisfaction to observe that your mind has anticipated the decision to enforce the law, in case a refractory spirit should continue to render the ordinary and more desira-

* August 16, 1792.

ble means ineffectual. My most deliberate reflections have led me to conclude that the time for acting with decision is at hand; and it is with pleasure, I can add, that an increasing acquiesence is likely to render this course the less difficult in the cases in which an uncomplying temper may finally prevail."

After many efforts, the Inspector of the Revenue procured the house of a Captain in the Army for an office of Inspection in the county of Washington. Here he attended, in the month of August, seventeen hundred and ninety-two.

This officer,* while in pursuit of some deserters from the army, was encountered by a body of people who reproached him for letting his house as an office of inspection, drew a knife upon him, threatened to scalp, tar and feather him, and to reduce his house to ashes, unless he promised to remove the office.

The promise was given, the office removed, and an assurance published, that the house should be no longer occupied for that purpose.

At the same time, another engine of opposition was in operation. Agreeably to a previous notification, there met at Pittsburgh on the twenty-first of August a number of persons styling themselves, 'A meeting of sundry inhabitants of the Western Counties of Pennsylvania,' who appointed 'John Cannon' chairman, and 'Albert Gallatin,' clerk.

This meeting entered into resolutions not less exceptionable than those of its predecessors. The preamble suggested, that a tax of SPIRITUOUS LIQUORS is unjust in itself, and oppressive upon the poor. That *internal taxes upon consumption* must, in the end, destroy the liberties

* Report to the President by the Secretary of the Treasury.

of every country in which they are introduced; that the law in question, from certain local circumstances which are specified, would bring immediate distress and ruin upon the Western Country; and concluded with the sentiment, that they think it their duty to persist in remonstrances to Congress, and 'in every other LEGAL measure that may obstruct the operation of the LAW.' The Resolutions then proceed, first, to appoint a Committee to prepare and cause to be presented to Congress an address, stating objections to the law and praying for its repeal; secondly, to appoint Committees of correspondence for Washington, Fayette, and Alleghany, charged to correspond together, and with such Committee as should be appointed for the same purpose in the county of Westmoreland, or with any committees of a similar nature that might be appointed in other parts of the United States; and also, if found necessary, to call together either general meetings of the people, in their respective counties, or conferences of the several committees; and lastly, to outlaw the collectors of the duty,* RECOMMENDING TO THE

* The style of this resolution shows it to have been written by one to whom the English was not his vernacular, probably, Gallatin, the Secretary of the meeting.

August 22, 1792. "And whereas some men *be* found amongst us so far lost to every sense of virtue and feeling for the distresses of this country as to accept offices for the collection of the duty.—Resolved, therefore, that in future we will consider such persons as unworthy of our friendship, have no intercourse or dealings with them, withdraw from them every assistance, and withhold all the comforts of life which depend upon those duties; that as men and fellow-citizens we owe to each other; and upon all occasions treat them with the contempt they deserve; and that it be and it is hereby most earnestly recommended to the people at large to follow the same line of conduct towards them.

"JOHN CANNON, Chairman.
"ALBERT GALLATIN Clerk.

From the "Aurora" of Sept. 1, 1792.

PEOPLE AT LARGE TO FOLLOW THE SAME LINE OF CONDUCT TOWARDS THEM.

"The idea," Hamilton remarks in his Report, "of pursuing *legal* measures to *obstruct* the *operation of a law*," needs little comment. Legal measures may be pursued to procure the repeal of a law, but to *obstruct* its *operation* presents a contradiction in terms. The operation, or what is the same thing, the *execution* of a law, cannot be *obstructed*, after it has been constitutionally enacted, without illegality and crime. The expression quoted is one of those phrases which can only be used to conceal a disorderly and culpable violation, under forms that may escape the hold of the law.

"Neither was it difficult to perceive that the anathema pronounced against the officers of the Revenue placed them in a state of virtual outlawry, and operated as a signal to all those, who were bold enough to encounter the guilt and the danger, to violate both their lives and their properties."

Intelligence of these proceedings was given to the President by the Secretary of the Treasury, informing him that he had "directed the Supervisor of the District to repair forthwith to the Survey, to ascertain in person its state," and to endeavor to prevail upon the inhabitants to acquiesce, and to represent "the impropriety of Government remaining longer a passive spectator of the contempt of its laws." He then mentioned his intention to submit to the Attorney General the question, whether an indictable offence had not been committed at Pittsburg, and the nature of their proceedings, in order that they might be subjected to the cognizance of the Circuit Court: and added, "My present * clear conviction is, that it is

* Sept. 1, 1792.

indispensable, if competent evidence can be obtained, to exert the full force of the law against the offenders, with every circumstance that can manifest the determination of the Government to enforce its execution; and if the processes of the Courts are resisted, as is rather to be expected, to employ those means which, in the last resort, are put in the power of the Executive.—If this is not done, the spirit of disobedience will naturally extend, and the authority of the Government will be prostrated. Moderation enough has been shown. It is time to assume a different tone. The well-disposed part of the community will begin to think the Executive wanting in decision and vigor. I submit these impressions to your consideration, previous to any step which will involve the necessity of ulterior proceedings, and shall hope as speedily as possible to receive your instructions."

The President replied, commenting on the reprehensible conduct* of a part of the community for whose protection the money arising from the tax was principally designed, and approving of the measures suggested by Hamilton. He added, "If opposition is still given to the due execution of the law, I have no hesitation in declaring, if the evidence of it is clear and unequivocal, that I shall, however reluctantly I exercise them, exert all the legal powers with which the Executive is invested, to check so daring and unwarrantable a spirit. It is my duty to see the laws executed. To permit them to be trampled upon with impunity, would be repugnant to it, nor can the Government longer remain a passive spectator of the contempt with which they are treated.—*Forbearance*, under a hope that the inhabitants of the Survey would recover from the delirium and folly into which they were plunged, seems to have had no other effect

* Hamilton's Works, iv. 286. Sept. 7, 1792.

than to increase the disorder."—He approved the proposed indictment.

In a subsequent letter,* Hamilton, though another officer of the government dissuaded it,† advised a Proclamation by the President, among other reasons, "to prevent the necessity of ulterior coercion," and from the hope that the President's character "naturally inducing a conclusion that he meant to treat the matter seriously, would be impressive on the most refractory, restrain the timid and wavering, and encourage the well disposed." He mentions information that the dissatisfaction had also extended to parts of South Carolina.

Having drawn the proclamation, Hamilton first submitted it to the Attorney General. Randolph dissuaded a prosecution of the offenders, and also suggested several alterations in the document. It was then laid before the President.

In the letter‡ enclosing it to him, after expressing a doubt whether instruments of that character ought to be under the seal of the United States, Hamilton added, "the practice having been begun, there are many reasons which in this instance recommend an adherence to it, and the form of the attestation is adapted to this idea." If the absence of the Secretary of State should require it to be varied, he suggested to him, "to omit from the words, 'In testimony,' to the words, 'my hand,' inclusively, and to substitute the word 'given' for 'done,' and to direct the Attorney General to countersign it, observing, "every day's delay will render the act less impressive, and defeat a part of its object."

"The propriety of issuing the Proclamation depends of course upon a resolution to act in conformity to it, and

* Sept. 9, 1792. † Jay's Life, v. 2, 211. ‡ Sept. 11, 1792.

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put in force all the *powers* and *means* with which the Executive is possessed, as occasion shall require. My own mind is made up fully to this issue, and on this my suggestion of the measure is founded. Your letter by the last post, confirming former intimations, assures me that you view the matter in the same light.

"The words in the Proclamation, 'dictated by weighty reasons of public exigency and policy,' are not essential to the general scope of it. They amount to an *additional commitment* of the President on the question of the merits of the law, and will require to be well considered.

"That the Proclamation, both as to *manner* and *matter* will be criticised cannot be matter of surprise, if it should happen, to any one who is aware of the lengths to which *a certain party is prepared to go.* It ought to be anticipated as probable.

"In a step so delicate and so full of responsibility, I thought it my duty to make these observations, though I was sure they would of themselves occur."

The President enclosed this document to be countersigned by Jefferson. As motives for requiring his signature, he stated to Hamilton * a desire to conform to previous practice, and "for *another reason which has some weight in my mind.*" He left it to Jefferson's discretion to expunge the words underscored by Hamilton, declaring his opinion in terms explicit, of his purpose to perform his duty;—"that the opposition had been too open, violent and serious, to be longer winked at by Government, without prostrating its authority, and subjecting the Executive to the charge of censurable inattention to the outrages which are threatened." †

* Washington to Hamilton. Sept. 16, 1792.

† Hamilton's Works, iv. 312.

The reply of Jefferson prefers an omission of the declaration that "the laws were dictated by weighty reasons of public exigency and policy," to which the President acquiesced. It carefully avoided the expression of any opinion as to the expediency of the Proclamation.

The language of Washington to Hamilton, that he was influenced in calling for Jefferson's signature "for *another reason, which had some weight in his* mind," is abundantly significant of the President's distrust of that officer. Nor was this distrust ill-founded, as is shown by a letter from Jefferson to Madison;—"Hamilton says there is no possibility of getting the law" (the Excise act) "executed there, and that probably the evil will spread. A Proclamation is to be issued;—*another instance of my* being *forced* to *appear to approve what I have condemned uniformly from its first conception.**

It cannot be forgotten, that this language of Washington, was used only seven days after the date of the letters from Hamilton and Jefferson of the ninth of September. The letter of the President which contains this language, acknowledges Hamilton's and shows beyond all question, the impressions made upon him by the letters of his two cabinet officers, then lying before him;—that of Hamilton, free from passion, dignified, open; in every line, in every word, full of conviction, showing how far regard to "the public good" rose above private, personal consideration:—that of Jefferson, a labored libel, so indicative of his character, that his direst enemy could desire no other weapon for his exposure and his disgrace.

In his recent letter to Hamilton, Washington stated, "I have no doubt that the Proclamation will undergo many strictures, and as the effect proposed may not be

* Infra, Vol. iv. 449. See Jefferson's direct approval of an Excise.

answered by it, it will be necessary to look forward in time to ulterior arrangements. And here, not only, the Constitution and laws must strictly govern, but the employing of regular troops be avoided, if it be possible, to effect order without their aid, otherwise there would be a cry at once; 'The cat is let out; we now see for what purpose an army was raised.' Yet, if no other means will effectually answer, and the Constitution and laws will authorize these, they must be used as a dernier resort. If you remain in opinion, that it would be advisable for the President to transmit the Proclamation to the Governors of North and South Carolina, and to the Governor of Pennsylvania, I pray you to draft such letters to them to be forwarded from hence (with Proclamations which must also be sent to me) as you may think best calculated to produce the end proposed."

These circulars were prepared and transmitted with copies of the Proclamation.*

Hamilton had consulted Randolph, the legal adviser of the Government, as to the contemplated prosecutions. He dissuaded them at the moment, assigning as his reason, "that the malignant spirit had not developed itself in acts so specific, and so manifestly infringing the peace, as obviously to expose the culpable persons to the censure of the law."

In conformity with the President's views, instructions were now given to him to institute them.†

* The Proclamation after stating, that the opposition to laws made pursuant to an express provision of the Constitution, was "subversive of good order and dangerous to the very being of Government," and the moderation of the Government and the disposition manifested by the Legislature to obviate the causes of objections, admonished and exhorted all persons to refrain and desist from all unlawful combinations to obstruct the operation of those laws, and charged the magistrates to exert their powers to enforce them.

† The opinion which that officer (Randolph), who had not yet committed

Meanwhile the supervisor of the revenue had proceeded to the interior of Pennsylvania, as directed by Hamilton, among other objects to uphold the confidence and encourage the perseverance of the officers acting under the law, and to induce the refractory to yield by arguments addressed to their sense of duty, exhibiting the eventual dangers and mischiefs of resistance.

Hamilton hoped, to the last moment, that coercion by arms might be avoided. "I flatter myself," he wrote to the President,* "the Proclamation will answer a very valuable purpose, but every thing which the law and prudence will warrant will be put in train, as circumstances shall indicate for such eventual measures as may be found necessary. I do not however despair that, with a proper countenance, the ordinary course of legal coercion will be found adequate."

The mission of the supervisor gave, "confirmation of the enmity which certain active and designing leaders had industriously infused into a large proportion of the inhabitants, not against the particular laws in question only, but of a more ancient date, against the government of the United States itself."

Randolph, expressing a doubt whether the proceedings at Pittsburgh were *indictable*, did not proceed in a course which true policy would have dictated. A prosecution, subsequently erroneously commenced, was abandoned.—No examples were made of the persons engaged

himself fully with the opposition, entertained, of its agency in promoting disaffection, is shown in a letter to the President.

"At a late Court, persons indicted for an assault on the Excise Officers were convicted. This event will increase the abhorrence which several of the *party*, who are associated with Gallatin and Smilie, feel themselves compelled to express, in order to avoid the imputation of a love of anarchy."

* Sept. 22, 1792.

in this violent opposition to the laws. The officers of the Revenue were left "to struggle against the stream of resistance."

Still anxious to avoid extremities, Hamilton digested a plan for executing the laws without recurring to force.

It was "to prosecute delinquents, in cases where it could be clearly done, for non-compliance with the laws; to intercept the markets for the surplus produce of the distilleries of the non-complying counties by seizing the spirits on their route to those markets, where it could be effected without opposition; and by purchases through agents, for the use of the army (instead of deriving the supply through contractors), confining them to spirits, in respect to which the laws had been complied with."

The motives to this plan were, besides the influence of penalties, to make it the interest of distillers to comply with the law, those furnishing the Government, receiving in payment, cash, the want of which, it has been seen, was one of the excuses offered for their disobedience.

But the penalties could not be enforced without the aid of the officers, who were intimidated, and the law did not extend to the North Western territory, where the army then was stationed. The Secretary of the Treasury resolved to await further legislation to enable him to carry this plan into effect.

During this recess of Congress, his attention was also closely directed to measures for the collection of the duties arising from commerce.

This was much facilitated by the establishment of the Bank of the United States, in the notes of which the revenue was paid.

Frequent orders were given directing returns by the collectors of the public property in hand. Instructions were also issued as to the modes of estimating the value

of goods—as to the proceedings for the collection of fines, penalties and forfeitures;—as to manifests, so as to ascertain the true condition of vessels and to frustrate plans for smuggling. Forms were also transmitted for making returns of the exports; of abstracts of licences; specifying the amounts of salaries and fees; and a quarterly summary of the duties accrued was directed.

A vein of liberality, and yet of exactness, is seen in all his correspondence with the officers of his Department. "It is conceived to be an important general rule (where no principle of public policy calls for a free interpretation) that the subject shall not be taxed or burthened by construction" was an opinion expressed by him in relation to the Coasting Act; which, he said, was "very inaccurately drawn, and in many particulars unprovisional." In deciding on exemptions as to duties, he observed in another instance, "You must consider 'the spirit of the act' which looks to the encouragement of internal manufactures."

"It is with great satisfaction," he remarked, in another circular, commenting on the idea that the collector's oath required him to act according to law, and therefore that he was judge of the law, "I have it in my power to acknowledge the zeal and good disposition of the officers of the customs. It is my earnest wish to cultivate harmonious and cordial co-operation; and that correct opinions should be mutually understood. It is an universal principle of jurisprudence and a clear dictate of reason, that authorities within *particular* spheres are subordinate to a general authority relating to the same subject, and pervading the whole of them. It is not possible to conceive how an officer can *superintend* the execution of the law, unless he is competent to the interpretation of the law, or, in other words, has a right to judge of its meaning." "I am

aware," he adds, "of the reasonable limitations to which, the general principle is subject, as restrictions in the nature of things upon the abuses of authority, applying as well to the operation of laws, as of instructions relating to their execution. But while I am desirous, on public principles, of establishing what I suppose to be correct views of the just and necessary authority of this department, I trust, that nothing I have said, will tend to discourage freedom of observation on any instruction which may issue from it. I shall constantly think myself indebted to any officer who shall give me an opportunity of revising an opinion, with the aid of his remarks, which may appear to him consonant with law, with his own rights, or with the good of the service. To every communication of this sort, I have always paid, and shall always pay, careful attention; and, as often as I can be convinced of an error, I shall with cheerfulness acknowledge and retract it." In one instance this appears. He gave an instruction in support of which, during the absence of the Attorney General, he obtained the opinions of two eminent counsel. Randolph subsequently took a different view, when Hamilton, though his own opinion remained unchanged, rescinded the instruction.

The duties of his office being very onerous, he soon after, under the authority of a recent law, committed to the Comptroller the immediate superintendence of the collection of the duties of impost and tonnage. "But the disposition and payment of the monies accruing from these duties will," he wrote, "as heretofore, be under my immediate direction."*

* The papers required by him show his minute care of the public interests. —"1. *Weekly* returns of monies received and paid. 2. *Monthly* schedules of Bonds. 3. *Monthly* abstracts of bonds *unpaid*. 4. *Paid* draughts and receipts for monies paid to Bank and otherwise, under special directions from me."

The supervisors of Boston, deeming it within their province to tax property in the National funds, asked to inspect the stock-lists. This Hamilton refused, among other reasons, on the ground, that such permission would have a tendency "to lay open the affairs and operations of merchants more than is consistent with the spirit of trade." He added, this important remark, "at the same time, I feel myself called upon by the occasion to express an opinion, that every thing in the nature of a direct tax on property in the funds of the United States, is contrary to the true principles of public credit, and tends to disparage the value of the public stock."

These notices serve to show the principles which governed him in the performance of his ministerial duties, and throw light upon his temper and character.

During this period his attention was likewise directed to the negotiation of the foreign loans. A proposal in the first instance to change the system was rejected. In the hope that competition might obtain better terms inquiries were made as to the practicability of negotiations out of Holland, and the restrictions as to the powers of borrowing were removed. So efficient had been his measures for the restoration of the public credit of the United States, that, notwithstanding the excessive and alarming speculations in this country, a new loan was effected in Amsterdam at four per cent.

In the application of its proceeds, every effort was made to derive the greatest benefits to the public. Measures were taken for the reimbursement of the debt to Spain, and provision was made and directions were given for the discharge of the interest and principal due to foreign officers, who had served during the Revolution. But especial care was had that no undue advantage should be taken of the troubled condition of France. Her gov-

ernment was apprised, that the loss in the depreciation of her assignats would not be transferred to her, but that an equitable adjustment would be made, and the terms of such adjustment were prescribed.

Intelligence being received, soon after, of the suspension of the King of France which rendered the "validity as well as usefulness to her, of future reimbursements questionable;" Hamilton, with prompt attention to the public interests, increased his drafts on the foreign fund, applying the proceeds to the purchase of the domestic debt.

Amid his multifarious duties, he was called to adjust certain land warrants for bounty lands. The adjustment being susceptible of different constructions, and he being slightly interested in the result, referred the matter, to be governed in his determination of it, by the opinion of the Attorney General. A frequent correspondence was also passing at this time as to the operations of the Manufacturing Society at Patterson.

As the duty had been imposed on him of furnishing the supplies to the army, he prepared an arrangement by which all payments were to be made to the immediate Creditors for these supplies, "so as to prevent the officers of the War and Treasury departments from handling the public moneys, and to exclude ill-natured suspicions." He also suggested to the President the propriety of calling on these departments to report the regulations under which the procuring, the issuing, and accounting for supplies to the army is conducted, intimating his readiness to prepare a system.

Among his numerous other avocations the most important subject of his consideration relating to the Finances was the preparation of a PLAN for the REDEMPTION of the DEBT.

Had the success of his policy been the measure of his reward, it would have been ample. Ames wrote him, "You make mention of the bank in your favor of the second of July. The eagerness to subscribe is a proof of the wealth and resources of the country, and of the perfect confidence reposed by our opulent men in the government. People here are full of exultation and gratitude. They know who merits the praise of it, and they are not loth to bestow it." * * * "The success of the Government of the United States, and especially of the measures proceeding from your department, has astonished the multitude; and, while, it has shut the mouths, it has stung the envious hearts of the State leaders."

The malignity of the opposition, is thus feelingly adverted to, by Hamilton, in a letter to the Chief Justice. "I am persuaded, my friends would readily excuse my delinquencies" (in writing to them) "could they appreciate my situation. 'Tis not the load of proper official business that alone engrosses me, though this would be enough to occupy any man. 'Tis not the extra attention I am obliged to pay to the course of Legislative manœuvres that alone adds to my burthen and perplexity. 'Tis the malicious intrigues to stab me in the dark, against which I am too often obliged to guard myself, that distract and harass me to a point, which, rendering my situation scarcely tolerable, interferes with objects, to which friendship and inclination would prompt me.

"The success of the Vice President is a source of satisfaction, as that of Mr. Clinton would have been of mortification and pain to me. Willingly however, would I relinquish my share of the command to the anti-federalists, if I thought they were to be trusted. But I have so many proofs of the contrary, as to make me dread the experiment of their preponderance."

Jay replied,* "It is not difficult, to perceive, that your situation is unpleasant, and it is easy to predict that your enemies will endeavor to render it more so.

"The thorns they strew in your way will (if you please) hereafter blossom and furnish garlands to decorate your administration. Resolve not to be driven from your station, and as your situation must, it seems, be militant, act accordingly. Envy will tell posterity, that your difficulties from the state of *things* were inconsiderable, compared with the great, growing and untouched resources of the Nation.

"Your difficulties from *persons* and *party* will, by time, be carried out of sight, unless you prevent it. No other person will possess sufficient facts and details to do full justice to the subject, and I think your reputation points to the expediency of memoirs. You want time, it is true, but few of us know how much time we can find when we set about it. Had not your letter come from the Post Office, I should suspect it had been opened. The wafer looked very much like it. Such letters should be sealed with wax, impressed with your seal. I rejoice with you in the re-election of Mr. Adams. It has relieved my mind from much inquietude. It is a great point gained; but the unceasing industry and arts of the Antis, render perseverance, Union, and constant efforts necessary."

The motives which had induced Hamilton to accept office were too high to permit him to retire from it while his sense of duty forbade it. "I feel myself," he wrote to a much esteemed friend and most gallant fellow-soldier,† "I feel myself truly obliged by your friendly allusion to my unpleasant situation, and for the consolation which you are so kind as to offer me. The esteem of dis-

* Dec. 29, 1792. † Charles Cotesworth Pinckney.

cerning and virtuous men must always support a mind properly formed, under the pressure of malevolence and envy. I will not pretend that I am insensible to the persecution which I experience, but it may be relied upon that I shall desert no post which I ought to endeavor to maintain, so long as my own reputation, or the public good may render perseverance necessary or proper. When it is not requisite, either to the one or to the other, my friends will excuse me, if I recollect that I have a growing, and hitherto too much neglected family. It is to be lamented, that so strong a spirit of faction and innovation prevails at the present moment in a great part of the Country. The thing is alarming enough to call for the attention of every friend of the government."

A letter of Fisher Ames depicts the state of public feeling. "An attentive observation," he writes,* "of the events which fate is preparing for us is one of the duties of an historian, as well as of a citizen. You may see them in the embryo. I cannot believe that we are out of the woods. Success is poison to party zeal. The friends of the United States Government have applied themselves to spending their six per cents. The opposers are industrious, watchful, united. On every side it seems to me the cry denotes that we are going retrograde. Instead of making a government strong enough to dare to be firm and honest, we seem to be afraid that it is too strong, and needs unbracing and letting down. The States are advised to oppose Congress. Consolidation is a bug-bear which scares not only those who are in the dark, as might be expected, but those in the broad daylight. Facts refu e this pretence of a progressive encroachment on the State powers. Even in Congress the States seem to bear a major

* Philadelphia, Feb. 16, March 8, 1792. Ames' Works, i. 112, 114.

vote. No act has gone beyond federal limits—many important ones have stopped far short. The States, on the other hand, keep up an almost incessant siege. There is scarcely an article which some of them have not colegislated upon. With such means of carrying their sense and nonsense home to the great body of the people, it is not only easy to beat Congress, but it is hard for them not to beat, unless the men of peace generally see the anarchy to which this would carry us, and in consequence assume their proper station of champions for good order. Faction in this Government will always seek reinforcements from State factions, and these will try, by planting their men here, to make this a State Government. I could be personal if I chose it in this affair. There is some fear in the respect for Government; and that fear will become hatred on some occasions, and contempt on others. The Government is too far off to gain the affections of the people. What we want is not the change of forms. We have paper enough blotted with theories of Government. The habits of thinking are to be reformed. Instead of feeling as a nation, a State is our country. We look with indifference, often with hatred, fear and aversion, to other States. * * * Congress moves slowly, too slowly. The spirit of debate is a vice that grows by indulgence. It is a sort of captiousness that delights in nothing but contradiction. Add to this, we have near twenty Antis—dragons watching the tree of liberty, and who consider every strong measure and almost every ordinary one, as an attempt to rob the tree of its fair fruit. We hear incessantly from the old foes of the Constitution, this is unsconstitutional and that is, and indeed, what is not? I scarce know a point which has not produced this cry—not excepting a motion for adjourning. If the Constitution is, what they affect to

think it, their former opposition to such a nonentity was improper. I wish they would administer it a little more in conformity to their first creed.

"The men who would hinder all that is done and almost all that ought to be done hang heavy on the debates. The fishery bill was unconstitutional; it is unconstitutional to receive plans of finance from the Secretary; to give bounties, to make the militia worth having. Order is unconstitutional. Credit is ten-fold worse."

The session of Congress was again approaching. After calling upon Jefferson and Madison—then on a visit at Mount Vernon, for topics, Washington submitted them to Hamilton, to whom he again confided the preparation of his Speech.

CHAPTER LXXXII.

The Session of Congress opened on the fifth of November.

"The satisfaction in congratulating Congress on the continuance of the National prosperity," the speech observed, "was abated by information that the Indian hostilities had not terminated—repeated efforts to effect a pacification had issued only in new and outrageous proofs of persevering hostility. This had extended from the tribes North to those South of the Ohio without any breach of treaty or aggression as a pretext for it."

Every practicable exertion had been made to be prepared for the alternative of a prosecution of the War in the event of the failure of pacific overtures.—Many of the troops authorized to be raised had been recruited and were in course of discipline; but operations had been delayed as preferable to immature efforts—should such operations be inevitable, it was a consolation that the product of the revenues would supersede the necessity of additional burthens.

Recommendations were renewed, of the expediency of more adequate provisions for giving energy to the laws throughout the interior frontier, and for restraining the commission of outrages upon the Indians. Competent rewards were urged to induce the service of qualified and

trusty Agents; and it was recommended, that an eligible plan should, if possible, be devised for promoting civilization among the friendly tribes, and for carrying on trade with them upon a scale equal to their wants, and under regulations to protect them from imposition and extortion.

The income, it was observed, would be larger, but for the opposition to the internal revenue system, the impediments to which had been and were lessening, and the contentment with it progressive.

Symptoms of increasing opposition to it in certain quarters having rendered a special interposition proper, a proclamation had been issued to deter unlawful combinations for its obstruction, announcing that all lawful means to enforce it would be put into execution. Congress were assured, that "nothing within constitutional and legal limits" which depended on the Executive, would "be wanting to assert and maintain the just authority of the laws." "In fulfilling this trust," the President observed, "I shall count entirely upon the full co-operation of the other departments of the Government, and upon the zealous support of all good citizens."—

"A Revision of the judiciary system" was pressed, its structure tending to relax the efficacy of the laws; and a supplementary definition of offences against the Constitution and laws of the Union, and of the punishment for such offences, was deemed "worthy of particular attention."

"Observations," it was said, "on the value of Peace with other Nations are unnecessary. *It would be wise by timely precautions to guard against those acts of our own citizens which might tend to disturb it;* and to put ourselves in a condition to give that satisfaction to foreign Nations which we may sometimes have occasion to require from them. I particularly recommend to your

consideration the means of preventing *those aggressions by our citizens on the territory of other nations:* and other infractions of the law of nations, which furnishing just subject of complaint, might endanger our peace with them; and, in general, the maintenance of a friendly intercourse with foreign powers will be presented to your attention by the expiration of the law for that purpose." The measures connected with the Mint were referred to, and three loans were stated to have been made on terms and under circumstances confirmatory of the "high state of our credit abroad." An amendment of the law establishing the post office was adverted to, if necessary, "from a full conviction of the importance of facilitating the circulation of political intelligence and information."

A strong hope was expressed, that the National finances were sufficiently matured to enable the Government to enter upon a systematic and effectual arrangement for the regular redemption and discharge of the public debt.—"No measure," it was affirmed, "can be more desirable, whether viewed with an eye to its intrinsic importance, or to the general sentiment and wish of the Nation."

The speech closed in these terms—"The results of your common deliberations hitherto, will, I trust, be productive of solid and durable advantages to our constituents; such as by conciliating more and more their ultimate suffrage, will tend to strengthen and confirm their attachment to that Constitution of Government, upon which, under divine Providence, materially depend their Union, their safety and their happiness.

"Still further to promote and secure these inestimable ends, there is nothing which can have a more powerful tendency, than the careful cultivation of harmony, com-

bined with a due regard to stability in the public counsels."

The preparation of the address by the House of Representatives was committed to Madison, Benson and Murray. It expressed a general coincidence with the views of the speech.—An assurance of a disposition to sustain the measures adopted in relation to the Indians* is followed by an approval of the course pursued with respect to the opponents of the Excise, and by an admission of the importance of systematic and effectual provisions for discharging the public debt.

It closed with an intimation of confidence, that "their discussions would in all cases be guided by a proper respect for harmony and stability in the public counsels, and a desire to conciliate more and more the attachment of their constituents to the Constitution, by measures accommodated to the true ends for which it was established."

Similar sentiments were conveyed by the Senate in a tone indicative of the more friendly dispositions of that body to the President. A warm assurance of confidence in his administration was given; and an ardent wish declared, that his unabated zeal for the public good might be rewarded by the durable prosperity of the nation, and every ingredient of personal happiness.

A short time after the commencement of this Session of Congress, a question of much importance was presented to the President by Hamilton.† It arose upon an application by Ternant, the Envoy from France, for an additional supply of money to the Colony of St. Domingo.

* It is interesting to remark in the speech of the Six Nations to the President their request, that the agents to treat with them "should be accompanied by some 'friend or Quaker,' to attend the Council."

† Nov. 19, 1792. Hamilton's Works, iv. 328.

Having stated, that the condition of the Treasury would permit the granting the desired aid, the Secretary of the Treasury observed, that, "with regard to the propriety of the measure on political considerations, more serious difficulties occur. The late suspension of the King, which is officially communicated, and the subsequent abolition of Royalty by the Convention, which the newspapers announce with every appearance of authority, essentially change for the moment, the condition of France. If a restoration of the King should take place, "he was of opinion, that no payment made in the interval" on account of the French debt, "would be deemed regular or obligatory." * * "A payment to the newly constituted power as a reimbursement in course, or in any manner which would subject it to be used in support of the change, would doubtless be rejected."—"Succors furnished, under due limitation, would be so clearly an act of humanity and friendship, and of such evident utility to the French Empire, that no future government could refuse to allow a credit for them, without a disregard of moderation and equity." The espousal of the last change in France by the Colony increased the difficulty. He thought it also a question whether the French Minister was not superseded. On these grounds he advised, that limited aids be granted, but that, "whatever may be done should be cautiously restricted to the single idea of *preserving the Colony from* destruction by famine; and that, in all communications on the subject, care should be taken to put it on this footing, and even to avoid the explicit recognition of any regular authority in any person." But "under these cautions and restrictions," he submitted it "as his opinion, that succors ought to be granted, notwitstanding the degree of risk which will attend it."

"This caution," he observed, "had reference not only

to the safety of the United States in a pecuniary aspect, but to the avoidance of a "dangerous commitment which may ever prove a source of misunderstanding between this country and the future government of the French Nation." Hamilton believed, as proved to be the fact, that "the governing power would not be of long duration." This prudent advice was approved by the President, and Jefferson the next day* communicated the decision to the French Minister.†

The opening observations of the speech show the anxiety to remove the prevalent impressions as to the conduct of Indian affairs, of which a detailed view was given in a confidential report from the Department of War.

It will be recollected, that the report of the Committee appointed to inquire into the causes of the defeat of St.

* Jefferson to Ternant. Jefferson's Works, iii. 198. Nov. 20, 1792.

† In Jefferson's Anas, iv. 473, a tale is related, of Hamilton's *having "called on him* to speak about furnishing supplies to the French Colony of St. Domingo"—and of his having stated, that "he did not even think that some kinds of government they might establish could give a sufficient sanction—and that in reply to his (Jefferson's) opinion, "that we must recognize any other which should be established by the Nation," Hamilton observed, "if in any future form, *they should omit the King, he did not know that we could with safety recognize it, or pay money to its order.*" In a Note the proceedings of a Cabinet Council are given on this question as having been held "about the first week in November." The probability of Hamilton's *having called* to converse with him, after such an open warfare, may be judged of. The whole story is evidently a fable. The subject was submitted to the President by Hamilton officially, on the 19th of November, in writing. His decision was immediate, and was carried into effect the next day by Jefferson's letter of the 20th Nov. The character of the decision shows no Cabinet Council would be required on the subject. The object of this tale is manifest. Randall uses it. At the time this advice was given, a letter was received by Hamilton from the French Government, transmitting to him a diploma of citizenship. The letter is certified by *Danton*, and is addressed to Priestly—Payne—George Washington—*Jean* Hamilton—N. Madison, T. Konenisko.—The Diploma was signed by *Roland*.

Clair was not made until the last day of the previous Session.

This Report had given great dissatisfaction to the parties implicated, who charged upon it a want of fairness in the mode of stating many of the facts, and of truth as to others. The latter objection was shown to have been well founded by a publication of the censured contractor, made immediately after the Report was promulgated, pointing out many and very material misstatements.

On the day following the President's Speech, this Report was referred to a Committee of the whole House, and as soon as the Address to that Speech was adopted, a resolution was offered by Colonel Dayton that the Secretaries of the War and Treasury Departments should be notified to attend the House on the day when this inquiry was to commence, for the purpose of giving such information as it might require.

This resolution was objected to on the grounds, that these gentlemen were not impeached—that sufficient information could be obtained from them, if required, by a call of the House, and that it should be given in writing. It was supported for the reasons, that this Report had made injurious impressions;—that it had criminated persons who were absent at the time of the investigation;—that it was due to truth and to the National honor to probe this subject;—that the situation of the two Secretaries was peculiar, that they did not stand on the same ground with other persons who were not so intimately implicated in the business;—that the public wanted further satisfaction;—that the report had expressly exculpated the commanding Officer, while the two Secretaries were implicated in the causes of the failure, although the facts stated in it showed that he must have been highly culpa-

ble,—in the slowness of his movements,—for his dilatoriness in constructing forts, and his being surprised by the enemy. It was denied, that it was contemplated that either of the Secretaries should appear on the floor of the House to influence, in any degree, its decisions. They were to be called upon merely for information. After a warm debate, in which Giles, White, Tucker and Madison opposed the resolution, it was moved by the latter member to recommit the Report. With respect to this proposition Ames observed, that he perceived such a disinclination to go into the business as did not indicate a proper temper of mind in relation to the persons supposed to be any ways interested in the ultimate decision of the House. He was opposed to a recommitment, as it would procrastinate instead of expediting the inquiry.—He adverted to the Report.—Facts are stated.—The public mind has been left to draw the inferences. The Committee have not expressly implicated any body, but they have determined in several instances who is *not* to blame. What is the situation of those who are implicated in the causes of the failure? Every citizen knows, that in consequence of the issue of the expedition, clamors against the War department in respect to Indian affairs have rung through the continent. Should public Officers, who have been placed in situations of such importance, be silent, and submit calmly to such imputations, they would be unworthy of public confidence. They now apply for an opportunity to be heard in their own vindication. Shall they be sent to a Committee Room and make their defence against the allegations brought forward to their disadvantage, which have been published to the world; in the hearing of perhaps ten or a dozen persons only? He hoped not. He thought justice to them and to the public required, that they should be allowed to make their defence in the face

of the world. Will not precluding them look like a wish to smother all further inquiry? Similar views were taken by Fitzsimmons and Gerry.

Some of the members of the Committee showed great sensitiveness to the objections to the Report, and invited an investigation of it. Steele denied the charge that it was exparte and complained of the indelicacy manifested towards them. Dayton replied, that, as one of the committee who had signed the Report, he was certainly implicated in whatever censure it merited, and that he would show that the deductions made in several parts of it were false. Boudinot, Lawrence and Murray, confident of the result, concurred in the opinion, that a recommitment of the Report was the better course, and the motion of Madison prevailed. At his instance, after a long debate, the inquiry was referred to the *same* Committee which had made the previous report, a motion to add to its number being rejected.*

After a delay of three months, near the end of the session, a Revisionary Report was made by Giles. From the official accounts of the Commander of this expedition, it appeared, that his army moved from Fort Washington on the seventh of September seventeen hundred and ninety-one, and after having consumed fifteen days in erecting Fort Hamilton, a post on the Miami; and after having subsequently established another post, called 'Jefferson,' that it reached the seat of its disaster on the fourth of November, occupying nearly *two months* in advancing a distance of eighty-one miles, over which its remains retreated in *four* days.

That, in this progress, it had been diminished by the

* A letter of Jefferson to Macon Page, Nov. 19, 1792, mentions "the rejection of an effort to permit the heads of Departments to *deliberate* with them for the purpose of explanation, or *perhaps influence*."

desertion of a part of the Militia, and had been reduced by detachments to the number of fourteen hundred effectives.—That the commander selected as the position of his army an eminence with a brook in front surrounded by forests. That, small as his number was, he separated the Militia from the regular force, stationing them beyond the brook. That thus encamped, he presented to an enemy of skilful marksmen, ambushed in the woods, "near enough to destroy him, and comparatively invisible," a large and exposed front.* That in such a post he permitted himself to be surprised at break of day. That the Militia thus exposed fled at the first onset, and notwithstanding the gallantry of the regular troops, so great were the disadvantages of the ground, and so injudicious was the disposition of his army; that, in an action of less than three hours, this body of troops was completely routed, with the destruction of nearly one half their number by a collection of Indians computed from five to twelve hundred strong, who suffered a trifling loss. That this signal defeat was followed by a "disgraceful rout."

The issue of a conflict under such circumstances with troops, most of whom were only partially disciplined, was inevitable. The incompetency of the commander, whose indisposition was interposed as his excuse, was an obvious and sufficient cause.

Yet in the original report, the Committee had entirely exculpated him, stating that "the whole order of March appeared to have been judicious, and the ground for action well chosen."

Their object in so doing was to criminate the Secretaries of the Treasury and of the War Departments.

* Washington's Writings, x. 223. General Armstrong to Washington.

With this view, the Report stated, that the original contract for the supplies had been made by the Treasury with one individual, who had given (as was supposed) sufficient bonds, and that this contract had been transferred to a third person, (whose intimacy with the Secretary of the Treasury was publicly known,) and that a copy of this transfer had been lodged in that Department, three months after, subsequent to which he had been considered as the *Contractor*.—The failure of the expedition was imputed to him; and from the statement in the Report, that he was recognized as the Contractor by the Departments of the Treasury and War, the inference before the nation was, that to these Departments the disaster was to be imputed; and that the pecuniary losses of the public could not be repaired, owing to this relinquishment of the liability of the sureties on the original contract.

The Supplementary Report showed, that a copy of the transfer had *not* been lodged in the Treasury, until long after the period previously stated by them, that, not until that had been done, the assignee was recognized as *the agent* of the *contractor*.—That all the warrants of the Treasury for money had been issued to him in *that capacity*, and that, from the opinions of the Attorney General and others of weight, it appeared, that the sureties on the original contract were *not* discharged. Thus this public calumny upon the Secretary of the Treasury was retracted, but not until a year after it had been fabricated and promulgated.

The Report also showed from a *re-examination* of documents upon which the first Report was founded, "that the date and terms" of another contract "were misrepresented." The original Report represented, that

the arms and ammunition which had been supplied were *damaged.* The Revisionary Report stated unequivocally, that the arms and ammunition were *delivered to the troops in good order.*

This supplementary Report was referred to a Committee of the House too late in the Session to be acted upon, and it was never after considered. It was, though a compelled, a complete vindication of Hamilton and conviction of themselves by his adversaries.

While this matter was before the public, an intimation was circulated in private, that Hamilton had in the conduct of this business been actuated by a spirit of favoritism to Duer. The intimation was traced to a member of Congress, an unhesitating tool of Jefferson. Hamilton immediately made a call upon him, charging his conduct to be "wanton and unwarrantable." The call resulted most discreditably to the propagator of this calumny.

Immediately after the discussion as to the course which should be taken with respect to this inquiry—a REPORT was made by the Secretary of the Treasury, accompanied with estimates of the appropriations necessary for the service of the year seventeen hundred and ninety-three.

This gave an estimate of the total expenditures for the Civil list and the War Department, a little exceeding one million six hundred thousand dollars.

On comparing the total expenditures with the net product of the revenue, inclusive of the duties on home-made spirits for half a year, it appeared, there would be a balance in the Treasury of twenty-five thousand dollars.

When these estimates were considered, objections were taken to the charges of compensation to the Loan Officers, which, upon an explanatory Report from the

Treasury, were approved. A motion was made to strike out the sum allowed for the contingencies of the War Department; and the President was called upon for an estimate of these contingencies, and of the items upon which certain estimates, called conjectural, were founded. A detailed estimate was reported by the Secretary of War, and resolutions were passed affirming the original estimates, with the exception of those for the defensive protection of the frontiers, which were left in blank and specially referred to the committee ordered to prepare a bill. With these resolutions, when first introduced, was one authorizing a loan to be made of the Bank of the United States for the current service, in anticipation of the revenue. It was withdrawn.

The following day, a new evidence of hostility to the Secretary of the Treasury was exhibited on a motion to refer to that officer a private petition for compensation for losses sustained during the War of the Revolution. Notwithstanding the practice of previous sessions, as appeared from the journals, to give to similar applications the same direction, this reference was objected to and negatived.*

This hostility was more strongly manifested in the proceedings relative to the disposition of the subjects mentioned in the President's Speech.

* "PHILADELPHIA, Nov. 19, 1792. Congress seems not to begin the campaign with any spirit. The Speech of the President is so federal that I should hope it would have some effect to repress the factious unwilling spirit which has plagued us heretofore. But it would be a weakness to suppose that we shall not find the opposition revived as soon as any important measure shall stir the wrathful souls of our fault finders. The poor Vice will be hard run. The Virginians have exerted all their force to combine the South and discontented men in the middle States and in New York against him, and in favor of Clinton." Ames, i. 123.

When the paragraph relative to the foreign loans was read in Committee, a resolution was offered by Fitzsimmons, "that it is the opinion of this committee that measures ought to be taken for the redemption of so much of the public debt as by law the Government has a right to redeem, and that the Secretary of the Treasury *be directed to report a plan for that purpose.*"

It was observed by Madison, that before he could agree to the motion just made, he wished for information as to the state of the finances,—that "it was not time for the adoption of measures to realize what appeared the general wish, until the information, on which those measures were to be grounded, was received." In this opinion Mercer concurred, dwelling particularly on that part of the resolution proposing a reference. He observed, "as to the main object of the motion, that he rather doubted the propriety of adopting at present a permanent system for the reduction of the debt," preferring a temporary provision until the next Congress, when a full representation would exist; and as to the reference, "that he conceived the power of the House to originate plans of finance, to lay new burthens on the people, intrusted to them by their constituents was uncommunicable."

These objections were replied to by Smith of South Carolina, by Sedgewick, and by the mover of the Resolution. Among other general remarks, it was observed, that the Report of the Trustees of the Sinking Fund, that day submitted to the House, showed that there was a surplus in their hands. The House had pledged themselves to enter upon the task in their answer to the President's address, and now to refer the business to a future Congress would appear like great reluctance to go into the measure, and would argue great unsteadiness. It was

evident, that the United States were paying more than the market interest upon their debt. It sold above par, and considering the rate at which loans could be obtained in Europe, that mode of reducing the debt was incontrovertibly eligible. As to the objection to a reference, the ultimate decision of the House was in no one point relinquished.

Madison, eager to thwart the Secretary of the Treasury, and to deprive him of the merit of initiating measures for the reduction of the debt, remarked, that he saw some difficulty in drawing the exact line between subjects of Legislative and Ministerial deliberations; but still such a line most certainly existed. Gentlemen who argued the propriety of calling on the Secretary for information, plans, and propositions, involved in it the propriety of permitting that officer, in the shape of a plan or measure, to propose a new tax; and to say whether it should be a direct or an indirect one. Yet, if it was proposed directly to give this power to the Secretary, few members, he believed, would agree to it.—He was in favor of striking out the reference. Gerry remarked, "while the law establishing the Treasury Department was under consideration, he had opposed that part of the bill which gave the Secretary power to propose to the House a tax and a plan to carry it into execution. He conceived such a power contrary to the principles of the Constitution. This power is however granted in that part of the law which authorizes him to propose, *without being called on*, plans for the support of credit, for the reduction of the Public Debt, &c. The Secretary nevertheless, knowing probably, that that power granted him by the law, was looked upon with a jealous eye by many members of the House, has *never exercised* it. He, however, was not averse to referring the subject of the motion to the Secre-

tary. He saw an impossibility, if taken up in Committee, of rendering the intended measure an uniform part of the great Financial whole. The clashing of various opinions would prevent it. If the influence of the Secretary was formidable, he conceived it would be much more dangerous, if exerted upon a select Committee, than in the whole house."

The effort to prevent a reference to the Secretary of the Treasury was revived in the House by a motion of Parker of Virginia to strike it out, which was supported by Page, Tucker, Findley, Baldwin, Giles, and Madison; and opposed by Gerry, Lawrence, Livermore, and Ames. The arguments in favor of the motion were sought to be derived from the language of the Constitution, and the nature of the Government, rendering it the exclusive province of the House to *originate bills of revenue*, as a special trust of that branch of the Government which possessed within itself the greatest knowledge of the people's circumstances and participation of their interests. This, it was urged, was a power which could not be delegated; and, yet, by this mode of proceeding, it was intrusted to an Executive Officer, chosen by the President and dependent on him for his continuance in office, and having an increasing patronage connected with that office. It was a power not given by the Constitution; and of which the State Governments afforded no example. The reply of Ames gives a full view of the course and character of this debate.

"It is so fashionable," he observed, "to introduce the funding system upon every occasion, that it would perhaps appear strange to say that it is out of order upon any. To my mind, it will be difficult to perceive that the question before us bears any relation to that subject, or to the frontier bill, the excise, the perpetual taxes, the

encouragement of manufactures and many other topics which have been interwoven with the debate.

"The great end is paying off the National debt.—This object truly important in itself, unites the best sense and strongest wishes of the country.—It is our duty to provide means for the accomplishment of this end. All agree that a plan is necessary. It must be framed with wisdom and digested with care, so as to operate with the greatest effect, until the debt is extinguished. Either mode of doing this suggested is practicable—by a select Committee, by the whole body, or by the Officer at the head of the fiscal Department. But which is the best? Common sense will decide, that the knowledge of our Financial affairs and of the means of improving them, is to be obtained most accurately from the Officer whose duty it is by law, to understand them, and whose daily experience best inform him of official details and the operation of the laws.

"But the Constitution is represented as forbidding this course.—I reverence the Constitution, and I readily admit that the frequent appeal to that as a standard proceeds from a respectful attachment to it.—So far it is a source of agreeable reflection. But I feel very different emotions, when I find it almost daily resorted to in questions of little importance.—When, by strained and fanciful constructions it is made an instrument of casuistry, it is to be feared it may lose something in our minds in point of certainty, and more in point of dignity.—'Bills* for raising Revenue shall originate in this House.'—Is a proposition for a reference or a plan reported, a bill? If so any suggestion from any source laid on the table of this House would be 'originating a bill.' Neither the letter of the Constitution nor any meaning that it can be tortured into

* Constitution, Article 1, Sec. 7.

will support this objection, so often urged with solemn emphasis and persevering zeal.

"This reference, it is said, will produce an improper blending of the Legislative and Executive branches. The Constitution has allotted powers to the several branches of the Government, and by that rule we are to judge of their several limits.—The President proposes measures to the Legislature in conformity to the Constitution, yet this has never been supposed to be a departure from a just theory, nor has it ever been insinuated, until late, in this or in any other country, that calling for information from Officers, any more than calling for testimony from witnesses, amounts to a transfer of our Legislative duty.

"These departments are not blended by this reference. Objections deduced from an over-refining theory, and not warranted by the Constitution, might require an answer, if we were now framing a government; but can have no force in the administration of one. It is a very scholastic and very imposing mistake to abandon the letter and meaning of the plan of government we act under, and to undertake to reason independently, as if we were now settling the institutes of a political treatise.

"The law of the old Congress and the practice were conformable to this motion.—The opposition is a novelty. —The law establishing the Treasury Department, which expressly makes it the duty of its head to prepare and report plans of finance, passed by a great majority. Scarce a whisper of objection was then heard.

"Those opposed to this reference have contended openly and strenuously for a reference to the Attorney General to revise a plan of the Judicial Department, and to the Secretary of State for a report on the means of improving our trade and navigation. The former votes and arguments of those opposed to the present reference, af-

ford some proof of its fitness, as well as constitutionality."

After arguing the intrinsic reasonableness of a reference, as promising the best means of information, Ames adverted to an instance which had been adduced in favor of acting without it—the first Impost law, introduced by Madison, before the Executive departments were organized.—"We had then," he said, "smooth ground to go over, and the aid of all the local knowledge and local feelings of the representative body, yet our success then affords little encouragement to adopt a similar course now. We began that act in April, and though we were losing revenue every day, we did not complete it till near August. The embarrassment was not less than the delay. The want of accurate information produced errors, revisions, and incessant struggles, and parts of the act were repealed soon after its passage.

"It has been said, 'let us first make some progress, and then ask information of the Secretary.' What, if this may be done, becomes of the Constitutional difficulties and all we have heard of the transfer of our deliberative power? If to be asked? Why should it not be asked before prepossessions are formed?

"With this Official information are we less qualified or worse disposed to deliberate? But the opinions of the Secretary exert an undue influence. If it is the influence of his reasoning, that can be analyzed and estimated by others.—If it be personal influence, independently of reason and evidence, that is apprehended—for whom do our opponents apprehend it—for themselves, or for us? If *they* do not *feel*, *we* do not *fear* it.

"We know how to respect their independence of spirit. They would disdain such an imputation. Their candor will permit us to say—that if they feel this apprehension for us, there is no occasion for it. The Constitu-

tion has no bearing on this question. The law and usage of the old Congress correspond with this motion. Our own Treasury law directs it. This would be an extraordinary mode of repealing a law. The advantages of a reference are manifest and great. Our past history has exhibited deplorable proof of the evils incident to the want of order, as well as to the systems of Finance and financiers."

After an unsuccessful attempt to limit the report, so as to exclude any proposition being made for an increase of revenue,—an attempt of which the invidious object was obvious, the original motion for a reference prevailed by a majority of seven votes.

CHAPTER LXXXIII.

In obedience to this resolution, and to another of the following day, directing him to report the plan of a provision for the reimbursement of a loan made of the Bank of the United States, a report was submitted by Hamilton to the House of Representatives on the third of December, embracing both these objects.

Having premised, that the expediency of taking measures for the redemption of the debt had been wisely predetermined by the resolution which referred the subject to him, the Report stated, that nothing remained for him but to endeavor to select and submit the most eligible means of providing for the execution of that important object.

Adverting to the estimates previously submitted to the House, it was observed, that they showed, that during the continuance of the Indian War, the appropriations for interest and the demands for the current service would exhaust the product of the existing revenues; though as they afford a valuable surplus beyond the *permanent* objects of expenditure to be applied, it is hoped, ere long, to accelerate the extinguishment of the debt. That, in the mean time and until the restoration of peace, the employment of that resource for that purpose must be suspended, and either the redemption must be deferred,

or recourse must be had to other expedients. This resort, if no such temporary necessity existed, was stated to be recommended by weighty considerations, leaving the surplus free to be applied to casual exigencies, to occasional purchases of the Debt, to the payment of the interest on any balances, that may be found due to particular States upon the general settlement of accounts; and to the payment of the interest on the deferred part of the debt, when the period for its payment arrived. If not diverted, it was believed, that it would be found adequate to the two latter purposes. The idea of applying immediately the present revenues to the redemption of the debt being relinquished, two modes of effecting it were proposed—temporary loans, equal to the sums redeemable, bottomed on the same revenues, then pledged for the interest of these sums—an expedient which would be attended with a material saving from the lower rate at which such loans could probably be made —or the establishment of additional revenues—a measure to be preferred, because the resource of temporary loaning would make but little impression on the debt.

Assuming the provision of additional revenues as the basis of a plan of Redemption; the mode of effecting it was presented in three forms—the immediate creation of a revenue equal to the full sum at present redeemable according to the terms of the contract.—The constituting a revenue from year to year, equal only to the interests to be redeemed in each year, uniting with this operation, an annual loan commensurate with such sum, —*or*,—that a revenue should be constituted each year, so much exceeding the interest of the sum to be redeemed as to be sufficient, within a short definite term of time, to discharge the principal, coupling with this operation also an annual loan, equal to the sum to be annually redeem-

ed; and appropriating the revenue created, to its discharge within the pre-determined term.

The first plan was the most effectual and economical, but the faculty of paying, should there be any sudden large augmentation, was not considered certain; while the rapid progress of the country in population and resource afforded a moral certainty, that the necessary augmentation might be made with convenience, by successive steps, within a moderate period.

The second plan was shown, by a statement of its results, not to be sufficiently efficacious. The third was preferred. In its application, it was deemed to be of material consequence to accomplish two ends;—one, the complete discharge of the sums annually redeemable with the period prefixed, and the reimbursement within the same period of all auxiliary loans made for that purpose;—the second, the constituting, by the expiration of that period, a clear annual fund, competent to the future redemption of the Debt, to the extent of the right reserved.

The period to which it was advised that the plan should extend, was to the year eighteen hundred and two, when the first payment of the deferred debts could rightfully be made.

A plan in conformity to these ideas was submitted; showing the annuities to be constituted, and the sums to be borrowed at specified periods, with their effects upon the debts. The result of these operations would be the discharge of the whole of the six per cent. stocks, both the deferred and those bearing a present interest, within the period originally reserved for their final redemption.

Hamilton, in the next place, presented to the consideration of the House a view of the requisite funds for the

commencement of the operation, embracing a provision for the first annuity only;—expressing a confidence that a provision for the subsequent successive annuities could be made as fast as should be necessary with due convenience to the people, without resorting to a tax on lands and buildings with the stock and implements of farms, "reserving them as a resource for those great emergencies which call for a full exertion of all the contributive faculties of a country."

The funds proposed were—the annual surplus of the Dividend on the stock of the Government in the Bank of the United States beyond the interest payable out of that dividend, and a tax upon horses used exclusively for riding or for drawing carriages for the conveyance of persons, increasing the rates according to the number of horses used, and excepting those employed in public stages.

The simplicity of this tax, the fact that it would fall upon those who could afford to pay (horses appropriated to the purposes of husbandry or of any trade or occupation or to the transportation of commodities being exempt), and its being of easy collection, were its recommendations. Should it be deemed objectionable, a tax on pleasure carriages was offered as a substitute.

On the subject of a provision for the reimbursement of the loan due to the Bank, the Report proposed, that power should be given by law to borrow the necessary sum, appropriating a part of the dividend on the stock of the Government to the payment of the interest on the amount to be borrowed the gain in the difference of interest producing a material saving. The benefit of this arrangement, it was stated, would be accelerated by authorizing the application to this purpose of the proceeds of the loans previously authorized, to be

replaced out of the loans to be made pursuant to the proposed power. The granting authority to invest the funds destined to purchases of the debt in the six per cent. stocks at the market prices, though above par,* was also advised, as more profitable to the Government than investments in any other species of stock.

This Report was laid before the House while it was occupied with the discussion of the estimates for the current service. The objections taken to the proposed appropriations for the protection of the frontiers were less to the precise amount of the estimates, than to the policy of sustaining the Military establishment on its augmented scale.

The inefficiency of the exertions to protect the frontiers had been a subject of much clamor during and subsequent to the previous session. It was now deliberately proposed, in the midst of this harassing warfare, to reduce the army from its present establishment to two regiments, and to rely for the frontier defence on the uncertain and expensive aids of militia.

This motion was founded on a statement of the expenses of the War department, and of their effect, absorbing the existing revenues and deferring, unless new taxes were imposed, the Redemption of the Debt.

A comparison was made of the relative merits of regular troops and of militia, only interesting, as giving a view of the hardships and the prowess of the early emigrants to the great West.

The House were called upon to arrest the progress of the administration in the increase of the standing Army, an establishment highly obnoxious to the people, but not to the Government—the dangers of which might be traced

* The act supplementary to the act for making provision for the Debt of the United States contained a restriction that the purchases of the Debt should be made at the *market price*, if not exceeding *the par, or true value thereof.*

in the history of other countries, if it were not superfluous, when our own affords such ample testimony. The Establishment began with one regiment, it is now five. The first appropriation for it was one hundred thousand dollars. It now exceeds a million. The amendments proposed by the State Conventions to the Constitution showed the unanimity which prevailed on this point, yet, while the ink which recorded these objections to the Constitution is yet drying, the evil then predicted has taken place.

A full reply was given by Hartley, Moore, Findley and Wadsworth. The last member expressed Hamilton's views. He examined minutely the statement which had been presented to the House, in support of this motion, and pointed out its many errors. He compared, in a long detail of the experience of the American people from their earliest settlement up to the late campaign, the respective merits of militia, and of a disciplined force; and expressed his surprise, that this question could now be agitated.

As to the extent of the military establishment, he remarked, that it had received the sanction of the President, who was fully conversant with what was required for such a service. Two modes of warfare existed—*defensive*, which could only be by permanent posts, to be garrisoned by regular troops—*incursive*, for which purpose Militia might be employed; but incursions alone never would procure a permanent peace, of which the Indians began to evince a desire. The propriety of the proposed reduction was denied, for the reason, that the act augmenting the Army left with the President the discretion either of increasing it to the full establishment, or in part, and of disbanding the additional regiments, when raised. As to the dangers of a standing army, it was asked—for such an outcry—is the country to be left defenceless, and the

Government to fail in its first and highest duty—the protection of its citizens?

Near the end of the debate, Madison observed, "It is said, that this is not the time to reduce the military force; that the President is invested with the power of reducing the army; that, while important negotiations are pending, it will be attended with inauspicious efforts to lessen the impressions of our power on the mind of the Indians."

These considerations, he admitted, had weight, but if the force can be continued on as respectable a footing as at present, and the expense greatly diminished, the Government would be inexcusable not to do it. He suggested, with this view, that the regular troops *already raised* should be completely organized, but not increased in number; and that the effective force, should be completed by volunteer militia; and intimated an amendment to this effect; but this amendment he did not formally propose.

When the vote was taken on the original motion to reduce the establishment, it was lost by a large majority, the frontier members, who were of the opposition, being restrained in this instance by local considerations. In the wide range of this discursive debate, the Fiscal system did not escape animadversion.

This subject being thus disposed of, a new appropriation bill, embracing the full establishment of the Army, passed the House of Representatives, and became a law.

While this bill was in progress, after a few preliminary observations on the Report of the Secretary of the Treasury in relation to the Redemption of the debt, and to a plan for reimbursing the loan made of the Bank of the United States, Sedgewick proposed, that a separate consideration should be had of these subjects; and that a select committee be appointed, to prepare a bill authorizing a loan to discharge that made by the Bank.

On the day appointed to consider this bill, Giles urged its postponement. If an immediate provision for this loan was peculiarly advantageous, he suggested whether it would not be better to provide for it without a new loan. For this purpose he moved as a substitute to the first section of the bill, a clause providing that the stock of the Government in the National Bank should be sold, and the proceeds applied to the payment of the debt.

This insidious motion, should it prevail, would have the effect of disconnecting the Government from the bank,—of preventing a new loan; and of destroying one of the principal resources which Hamilton had suggested in his plan as a mean for creating annuities to redeem the public debt.

Clarke took a different view. He was in favor of a loan, but declared that he would not consent to a foreign loan unless the exigencies of the Country were greater than the present; that he would prefer to pay seven and a half per cent. to our own citizens than five per cent. to foreigners. He moved, that the loan be negotiated within the United States.

The friends of the bill replied, that a sale of the Bank stock, by surcharging the market, would not produce a sum sufficient to pay the debt; and as to the proposed limitation of the loan to American citizens, they inquired, by what contrivance, foreigners could be prevented becoming our creditors, though such a limitation should be made. This motion was negatived.

Madison urged a *postponement* of the bill, in order, that a deliberate opinion might be formed, whether its object should be effected, either by an appropriation of money then dormant in the Treasury;—by a sale of the Bank shares;—or by a loan. To this suggestion Fitzsimmons replied, that, as to an appropriation to that purpose of the

surplus in the Treasury, it would be an immediate interference with an appropriation already made, leaving to a contingency a provision to supply its place. The discussion on the general merits of the proposed plan was resumed in the House—one party contending, that the contemplated loan would augment the debt;—the other insisting, that its obvious effect, by a reduction of the rate of interest, must be a diminution of the burthens of the nation.

The first section of the bill authorized a loan to an amount not exceeding two millions at an interest of not more than five per cent., limiting the period of its reimbursement. A motion was made to strike out this section, but only seventeen members voted with Madison in its favor. He then proposed to substitute, for the sum of two millions, two hundred thousand dollars. This was lost by the vote of the Speaker. The bill not being completed, a proposal was made on a subsequent day to take it into consideration, but the House refused to act upon it.

In the mean time, Hamilton's report of a plan for the redemption of the debt had been referred to a Committee of the whole House. When it was proposed to consider this Report, a debate arose as to the time when it should be acted upon, several members urging a remote postponement. A day not very distant was appointed for this purpose, but the plan was not brought forward until near the end of the session. Giles, then adverting to the imperfect information possessed by the House, stated that they were not prepared to go into a discussion of new loans and new taxes; and moved that the Committee rise.

This motion was supported by Mercer, Page, and Madison.

The latter member remarked, that the p an contained "abstract propositions which were improper,—professed his wishes that some provision should be made for reducing the debt," but urged objections, from the imperfect state of their information.

These objections were replied to by Fitzsimmons, Lawrence, and Smith. They stated the general expectation of the people that something should be done to reduce the debt, and the duty of the Government to avail itself of the right reserved of paying off a part of it. The condition of the Treasury justified the measure. The existing funds were adequate to effect the object in part, without resorting to new taxes. The House was possessed of sufficient information;—and it was at least proper to enter upon the consideration of the subject, to manifest a disposition to meet the wishes of the people, and to justify the professions made by so many members of the legislature.

The motion to rise was temporarily withdrawn,—when Fitzsimmons read two propositions.—One—that an annual fund be constituted to consist of one hundred and three thousand one hundred and ninety-nine dollars and six cents, to begin to accrue on the first of January seventeen hundred and ninety-three—the other, that a loan to the amount of five hundred and fifty thousand dollars should be made—thus embracing the first proposition in Hamilton's Report.

Giles then renewed his motion, that the committee rise. Madison repeated his objection of "abstract propositions;" and Venable gave notice of his intention to propose, that the Sinking Fund should be applied to the object of these Resolutions!

The indisposition manifested to act upon this proposition, and the delays which had been interposed, and which

were anticipated, not giving any prospect that this plan could now be carried into effect, the friends of Hamilton yielded to the persevering objections of his adversaries. Thus an extraordinary spectacle is exhibited.—While those, who were reproached with a desire to perpetuate the debt, were exerting all their influence to discharge it, not shrinking from the odium of laying new taxes—their opponents, who had clamored so loudly against it, resisted every measure proposed to effect that desirable object, without suggesting a substitute! The report was not acted upon.

A very important proposition was also at this time debated connected with the provision for the debt.

A Report had been received from the Commissioners appointed to settle the accounts between the United States and the individual States.

The Government was pledged to make a provision for the balances which should appear due to the creditor States. Claims to a large amount were suspended waiting the issue of the settlement.—By the act providing for it, these States were entitled to have these *balances funded within* twelve months after they were credited, upon the same terms with the other parts of the Domestic debt,

This subject was brought forward in a series of Resolutions, prescribing the terms of a loan, which it was proposed, should be opened to the amount of the balances, which, upon a final settlement of accounts should be found due from the United States to the individual States.—The sums subscribed to it to be payable in the principal or interest of the certificates or notes of any such State as should upon such settlement have a balance due to them, and which had been liquidated to specie value, prior to a specified time. The new certificates of stock to be of the like tenor and description, in the same proportions and upon

the same terms with those issued in pursuance of the fifteenth and sixteenth sections of the "act making provision for the debt of the United States,"—except that the interest on the certificates subscribed, which bore interest, should be computed to the first of January seventeen hundred and ninety-four, when the interest on the new loan was to commence. In case the sum subscribed in the evidences of the debt of any State, should exceed the balance due to it, it was to be reduced in equal proportions to the sum actually due to such State.

These Resolutions were opposed by Madison, Mercer, Giles and Page. Madison insisted, that these balances ought not to be provided for until they were ascertained by the Commissioners appointed to settle these accounts. That, on principles of justice and economy, so complex a system ought not to be adopted,—that it would extend taxation to the greatest degree, and involve the necessity of laying further taxes to reimburse the States that finally would appear to have the largest balances against them.—The real object was to effect a further Assumption which Congress had before rejected.*

It was replied, that the United States in the act of making provision for the Debt, had recognized these balances, that no possible difference could take place whether those balances were now assumed, or it was deferred until the ascertainment of their precise amounts,—that this measure would not increase the number of these credi-

* Jefferson had written to Col. N. Lewis, April 12, 1792:—"The chickens of the Treasury have so many contrivances, and are so indefatigable within doors and without, we all fear they will get it"—(a further assumption)—"in, some way or other, as the doctrine is, that a *public debt* is a *public blessing*, so they think a *perpetual* one is a *perpetual blessing*, and therefore wish to make it so large as that we can *never* pay it off." It may be asked, by whom was this doctrine ever avowed or acted upon?

tors, nor induce the necessity for a single farthing of increased taxation, as these balances were to be paid at all events.

The question simply was, whether the United States shall pay the States, as States, or the individual creditors, whose rights had been admitted and who were, to all intents, creditors of the Union? That a provision made before these balances were ascertained would prevent sectional feeling, and the interposition of obstacles which might defeat the payment of a debt, admitted to be due.

After this debate, an amendment was made, which required the assent of a State before any such loan could be opened in it, thereby giving to the State the alternative either of receiving the balance herself and paying it to her citizens, or of permitting them to fund it with the General Government.

The Resolutions were adopted. When the bill came before the House, there was an effort to exclude all certificates which had been transferred subsequent to the time this measure was brought forward, but it was rejected, on the ground, that this would have a retrospective operation interfering with contracts, thus altering the value of property and reviving the principle of discrimination between original holders and their assignees. A proposition to provide for the "New Emission Bills"* failed; and amendments were added, giving a preference to such certificates as had been issued for supplies furnished or services rendered during the War, and deferring the time of receiving subscriptions for one year,† when the balances would be finally adjusted.

On the question, whether the bill should pass, Madison remarked, that the amendment opening the loan to other

* Bills issued in 1780, March 18. † January 1, 1794.

certificates than those for debts incurred only for the support of the War, changed the principle of the bill: that the postponement of the time of subscribing to so distant a period was anticipating the proper business of a subsequent Legislature, more competent to decide than the present; and was an evidence that it was unnecessary for them to act upon the subject. He reprobated the idea of controlling their successors,—and was in favor of the previous question.

"This opposition to the bill at this stage of it, especially by those who had opposed the Assumption and who had advocated the very principle on which this bill is founded," a provision for the ascertained balances, Gerry observed, "was most unexpected. An opposition founded upon a Remonstrance of the State of Virginia against the acts of the National Legislature,—a remonstrance in which that State stood alone."*

He averred that this bill was consonant to the existing provisions of former acts of Congress, and that the amendments made to it, had been ingrafted to accomodate it to the wishes of those who still opposed it.—The claims of the Creditors were just. The operations of the Government had been already sufficiently embarrassed, without increasing its difficulties by opposing those claims. He was surprised and confounded at the conduct of the opposition.—Ames also reprobated the idea of thus applying the previous question, as a most unfair and unjustifiable procedure.—This refusal to act upon the subject "was pronounced an evasion of justice." It was an attempt to violate a solemn compact between the Federal Government and the States; and, if they could be guilty of so

* A few days previous to this debate, a remonstrance against the Assumption was received from Kentucky, which escaped the notice of the Member.

gross a breach of faith in a matter of sufficient moment to attract the attention of the citizens, there would be an end of the Government. The bill had not been opposed on its merits.—The objections were collateral to it.—If its effect would be to give greater stability to the settlement of the accounts then in progress—that, was not an objection, but an advantage.

The bill passed by the vote of the Speaker. It was lost in the Senate, by a large majority,* the States which were not Creditors voting against it.†

Direct attempts were also made to violate the existing obligations to the public creditors.

A bill was proposed and earnestly supported by Clarke and Mercer, the object of which was to authorize fees to be required on the transfers of public securities.—The reasons urged in favor of its passage indicate the feelings which actuated a large portion of the opposition.

After stating the general obligation to support the public institutions, it was observed by Mercer,—that it was but just that those who derive peculiar personal advantages from these institutions should pay for these advantages.—Such was the case before the House, and, without entering into a discussion of the considerations

* The minority were the Senators from Massachusetts, Rhode Island, Connecticut, New Jersey, and one from each of the States of New York, Pennsylvania, and South Carolina—Creditor States.

† Between two Memoranda in his Anas—of the 16th and 26th of February, 1793, this entry is found in Jefferson's Writings, iv. 478—without date—"There is reason to believe that the rejection of the late additional assumption by the Senate, was *effected by the President* through *Lear operating on Langdon.* Beckley knows this." Thus, amid all his professions to Washington, he represents him as clandestinely "*operating*" through a private Secretary upon a Senator, to defeat a great measure of justice, the principle of which the President is seen to have approved, and to which he subsequently gave his Official sanction. Randall inserts this, ii. 115.

connected with taxing the property in the funds, it was clearly his opinion, that that species of property was liable to taxation in common with every other, an idea sanctioned by the usages and customs of Nations. Clarke also remarked, that it was an expedient which the public exigencies may possibly require;—that great expense was incurred in the number of persons employed in making transfers; and that this expense was for the benefit of speculators, of whom a host was collected in a neighboring City, whence, as from a centre, they extended their negotiations to all parts of the Union.

In opposition to these views, the friends of the Public Credit dwelt much upon the importance of adhering, wherever it was practicable, to the principle established in the Government, that Public Officers should be compensated for their services without receiving fees;—that any other system would be attended with abuses and frauds against which it would be extremely difficult, if not impossible, to provide adequate checks. The proposed measure had a more serious aspect. It would operate as an infraction of the law making provision for the public debt. That law does not contemplate any charge being paid by the proprietors of that Debt for transferring it. The mode in which this was to be effected had been prescribed; and any restrictions upon it would be a breach of stipulated rights. It was laying a tax on a particular species of property already encumbered with various restrictions, in respect to which no option had been left to one of the parties. The right to transfer was an essential part of the value, and the particular process prescribed was not for the benefit of individuals, but for the security of the Government. If Congress can lay a tax on the transfer of the public securities, they may extend the principle to such a degree, as to interdict all

transfer whatever, or tax the debt, an idea subversive of public credit. The bill, after a second reading, was abandoned.

Another measure was now brought forward having a more extensive influence, and a not less pernicious purpose.

It was founded upon a memorial from the officers of the late continental army, claiming compensation for the losses sustained by them and by the soldiers who served during the war, in consequence of their being paid in a depreciated medium.

The extent to which these claims had been interposed as an obstacle to the establishment of the Funding System has been previously stated. The propriety of a discrimination between the original holders of the certificates of the public debt and their assignees, then urged by Madison, had raised the expectations of the army.

Those of the Massachusetts line first presented their claims to Congress in the year seventeen hundred and ninety-one.—Failing in their purpose, they sought to give force to their applications by inducing the other lines of the army to unite with them; and went so far as to contemplate a convention of officers from all of the States, to concert a conjoint application.—This project was abandoned; and a circular was addressed by a committee to the more prominent officers, stating the measures they had taken, and asking their co-operation.

In the mean time, anonymous letters were extensively circulated, applauding the devotion of the Southern members to the interests of the army, criminating those from the North as purchasers of soldiers' rights, and arraigning Washington and Hamilton as being "occupied in making arrangements for private speculations, accumulating certificates at the lowest prices, assisted by the greatest num-

ber of the members of Congress, who were engaged in the same pursuit." *

A second memorial was presented the following year, but it was not acted upon.—A second circular was issued expressing the determination of the officers to repeat their application, and "re-assert their claim" until they obtained "consideration and relief;" announcing that an agent had been deputed by them to Congress, and asking their co-operation.

A copy of this Circular was addressed to Hamilton, who, reluctant as he would naturally be, to disappoint the expectations or to incur the hostility of his brother officers, yet gave the following frank and decisive reply.

"I have received your Circular letter of the twenty-eighth of February last. I consider it as addressed to me in the capacity of a fellow soldier, and in that capacity I now acknowledge and answer it. Respect for you, gentlemen, and those on whose behalf you write, does not permit me to be silent;—and in replying, the frankness which is due to you and them, and which is not less due to my own character, forbids me to dissemble.

"My judgment does not accord with the views which are announced in your letter. A perseverance in them will not, I believe, be productive of any advantage to the parties, and may, I fear, be attended with some public inconveniences, which, I am persuaded, they would regret. I also have made sacrifices *with* the army, and, what is

* These letters emanated from "Banks," then residing in Virginia, a person of infamous character, notoriously in the service of the opposition.—A worthless person of the name of Blanchard, also residing in Virginia, was employed in the same office of detraction. He made an attempt on Colonel Page, who denounced him to Hamilton, saying, "I hope it will serve as a proof to you, that I disdain to be an accomplice in a cabal against you, and convince Mr. Blanchard that he has mistaken my character."

less known, *for* the army. I feel, that I love those who remain, of that respectable band, and that no one can be more solicitous than myself for their welfare. I trust, therefore, they will do justice to my motives on the present occasion." The agent deputed to Congress was William Hull.

A third memorial was presented to Congress from the lines of New Hampshire, Massachusetts, New York, Pennsylvania, Delaware and Maryland, in January, seventeen hundred and ninety-three, while that body was engaged in discussing the important proposition of a loan to provide for the balances of the State debts.

It was known, that there was much commitment on this subject;—that a strenuous effort would be made to carry it, by those individuals who had incurred the public odium by originally advocating a discrimination, and who had in addition to the leading motive, a subversion of the funding system; also that of acquiring political strength by drawing to their support the influence of the army. Hitherto, that influence had been exerted in favor of Hamilton's policy and of the Constitution. To excite discontent and inspire expectations which they knew would be disappointed, and which, when they acquired power, were never gratified, were the cruel and insidious arts, by which that influence was cultivated by his opponents.

This subject was brought forward by Gerry, who, though opposed to the adoption of the Constitution had hitherto supported the administration; and who, it was supposed, was actuated in this instance by a personal regard to certain of the officers, without reflecting on the perversion which could be made of this proposal.

He offered a resolution,—That it was their opinion, that the contract between Congress and a part of the

officers and soldiers of the army, raised for the establishment of the independence of the United States, had not been fulfilled.

This Resolution was objected to, both as indefinite, and as extending only to a part of the army; and he was urged to bring forward a sketch of the plan for which he intended the resolution to be a basis.

Madison, recollecting the embarrassments in which he had been involved in his early attempt to introduce a discrimination between the different classes of the public creditors by a call for a definite plan of discrimination, now artfully suggested a variation of the proposition to the simple question on the propriety of granting the prayer of the Petitioners. This was not acceded to; and it was moved, that the Petition be withdrawn.

The Resolution to grant the petition was sustained by Madison, Baldwin, and Mercer.

The following day, a motion was made, that a Memorial of merchants in Charleston engaged in commerce previous to the Revolution, stating the hardships they suffered from being compelled to pay under the Treaty of Peace their British debts in sterling money, with full interest, and from their being obliged to receive one dollar in specie for an hundred in Continental money,—should be referred to the same Committee. This motion was opposed, as involving a very different case from that of the officers, as being designed to embarrass their application.—It was supported as being precisely parallel, and that there should be no distinction in the relief granted to different classes of citizens. The discussion was arrested by the previous question.

The motion for rejecting the Petition being withdrawn, Gerry varied his resolution, so as to declare, that such provision should not exceed the difference between

the nominal amount of their original certificates, and the real amount at the present market rates of those to be issued in lieu of them.—An amendment was then proposed, in effect, embracing all persons who had received liquidated certificates for services rendered or supplies furnished during the late War.

This amendment was objected to by Colonel Hartley, who, after giving a brief detail of the sufferings of the army, stated, that the country had made a saving by the Funding system;—that it was a voluntary act upon the part of the soldier to accept the terms proposed in that system, and he was fairly entitled to that saving. He was followed by Sedgewick and Boudinot. The former, after declaring that no man entertained a higher opinion, of the patriotism of the brave and meritorious citizens who had ventured their lives in defence of their country, observed—that he knew several gentlemen who believed it was impracticable to grant the memorial without producing evils so many and so great as infinitely more than to counterbalance the benefits intended. It would be a criminating reflection upon those who had, with so much warmth, espoused the cause of the applicants, to suppose that they foresaw those evils, and were not prepared to guard against them. It would be indirectly charging upon them as the motives of their conduct, to give an approving countenance to an impracticable object—an intention of acquiring popularity at the expense of the reputation of the Government. He would rather suppose they had digested some scheme in their opinion of practicable compensation which they were pledged to bring forward.

He then entered into a view of the various grounds on which this claim rested, and of the effects of the proposition. If adopted, it must embrace every original

holder of the debts, for there was no discriminating principle by which the late army was alone entitled to redress for a violation of justice. The Government must unavoidably open an account with each original creditor, and if a distinction could be discovered between the army and other creditors, a further distinction might be found to separate the officers from the soldiers, to provide for the former, and not for the latter. If for the former, manifest injustice would be done.—If for the latter, also such sources of speculation would be opened as would inundate the country with enormous evils.—These effects had been undoubtedly considered.—The means of preventing them had been devised, and candor required that the motion should be withdrawn, in order that its advocates might be indulged with an opportunity of exhibiting their system.

Boudinot gave a full statement of the course of the Government of the United States towards the army, showing the various measures which had been adopted for their relief, terminating in the final settlements in seventeen hundred and eighty-three, when certificates were granted, at their instance, at first unalienable; but rendered assignable in compliance with their wishes by a subsequent act of Congress. "In this transaction, all former demands were involved, and the express stipulation of the army and the assent of Congress was, not to pay a specific sum in specie, but to *give such securities for the balances, as should be given to the other creditors of the United States.* The efforts to raise the Revenue to meet these claims having failed—the public fears and the universal complaints of creditors, induced a change of government in the existing Constitution, of which two material articles applied to all creditors—one, that the new Government was to be liable for the debts of the

old; and the other, that all contracts should be carried into effect agreeably to the terms of them.—At the earnest request of the creditors, the Government gave an early attention to the debt It found the contracts were with the original creditor, bearer, or assignee. The actual holder was a party to the contract, and claimed the whole debt. Many contended, that the original holder had an equitable demand for the surplus, or part of it, after paying the principal and interest of the sum for which it was transferred. But Congress refused a discrimination because they were parties to a contract and could not sit as a Court of law or Equity to determine these claims—that the holder could alone give a discharge—that it would be unconstitutional in them to destroy a bona fide contract of the parties; that for cases of fraud, the Courts of Justice were adequate, and that the attempt would be impracticable.—In consequence of this, propositions were made to the holders of the public securities on the principles of the funding system, the substance of which was, that, as the government in its infancy could not embrace a discharge of the debts, or indeed a payment of full interest, without risking the public credit as heretofore, and by this means again exposing the creditor to loss, it was therefore advisable to new modify the debt, so that the creditor should give up three per cent. upon the interest and two per cent. on the principal for ten years for which he should receive an equivalent in the following manner.—It was a very reasonable conjecture, in case the new Government succeeded and public credit was restored, that interest would fall in five years to five per cent. and in ten years to four per cent. in which case Congress might by new loans, at that rate of interest, pay off the whole National debt; but on the present plan, they would secure to the holder full four per cent. on the

principal for ten years, and afterwards six per cent, for a certain number of years, with three per cent. on the interest, let the common rate of interest be what it might.

This was accepted by the Creditor as a reasonable equivalent, and the debt was subscribed.

The event proved the truth of the supposition, and the value of the funded debt at one time rose to twenty-five shillings on the pound in six per cent. stock, while loans have been made by the United States at from four to five per cent. —Congress then gave a certainty of six per cent. for a number of years on the termsof the loans, for a partial reduction for ten years and a less interest on the arrears of interest, then due. This was certainly a full and generous equivalent, and the only advantage gained by the public, was a modification of the debt, by which the burthen would be divided, and the increased number of Citizens during fourteen or fifteen years would bear their proportion of the expense of a War, in the benefit of which they so essentially participated.

At the time of funding the Public Debt, the irredeemable quality was considered as a full equivalent and a compliance with the public faith.—I was then a public creditor, and considered it in that point of light.—I was a creditor who had a right to feel a loss as much as any man. I was a creditor of seventeen hundred and seventy-six, when the Army could not be sent to Canada for want of hard money.—I was a creditor in seventeen hundred and seventy-seven, when the prisoners were perishing for want of food and clothing, and the Government could not furnish a single suit or a tolerable supply for their extreme distress.—I was a creditor of seventeen hundred and seventy-eight, when, at the Valley Forge, the tracks of the Soldiers were marked with blood for want of shoes, which I collected in different parts of the State by my

own exertions and at my own expense, without fee or reward; and was not repaid till seventeen hundred and seventy-nine. I was a large creditor of seventeen hundred seventy-nine, when Congress sent to all parts of the Union, earnestly calling on the friends of their country to come forward with loans for the public exigencies; and I was a creditor as an Officer of the Army, in which I served.

Under this view of the subject, I acknowledge, that I have entertained great jealousies lest some other end was aimed at by the present resolution than the ostensible one. These jealousies were raised, when I heard Gentlemen found the success of the resolution on the savings made by the Funding System, though they had for past years been continually representing that system as founded on an extravagant waste of public treasure;—that the irredeemability of the debt was a tax on the Government which ought never to have been admitted, as moneys might have been loaned at four per cent.; and by that means one-third of the debt saved to the Union.

What ideas then must we form of a resolution calculated to raise the hopes of the Memorialists, which in the end would certainly turn out a mere shadow? This really was trifling with the complaints of your fellow-citizens. —There had been no savings.—The creditors who had possession of the public contracts had received a full equivalent for their demands, by their own free consent, at twenty shillings in the pound.—Where then was there any room for a demand on the Government for any saving? If there was a foundation for a claim, it must be against the possessors of the Certificates, but, however, just it might be, it was merely illusory to form the resolution on principles that had no existence.

The losses sustained by the line of the Army were

not peculiar to them as Creditors of the United States. All classes of citizens who had generously advanced their money for the support of this very army in food, clothing, arms and ammunition, as well as that of the Government itself, at home and abroad, had been equal sufferers, without the emolument the Army had received, in the most distressing times of the War.

The Army had been a refuge for many Gentlemen driven from their homes, while other citizens were obliged to wander for a considerable time, without employ or relief.

Having pointed out at length, the injustice and impracticability of a discrimination, he observed,—"I acknowledge that the generosity, the benevolence and humanity of Congress, have been addressed. To this, I answer, they are but stewards of the people's property, for which they are answerable.—They were not sent here to show their generosity.—It was to do justice; and that not to one class, but to every description of citizens. I know of but one rule for every citizen of the Union.—They are all equally represented in this House, but, at all events, it became them to be just before they were generous. I assure you, I have occupied so much of your time only, because I found no one had come forward fairly to meet the question; and I have too great a regard for the Memorialists, to wish them to go away under the idea that any thing had been refused to them which ought in propriety to have been done.—At any rate, I have candidly and openly given the reasons of my vote on this important occasion, which will be against the proposition made by the gentleman from Virginia." A vote was taken at the close of these observations, and the motion was rejected. This expression of opinion did not deter Giles from pursuing his purposes. He intro-

duced a resolution, that the prayer of the petitioners was reasonable, and that provision ought to be made for the payment to the original holders of the debt of the United States, of such sums as had been saved by the funding system, making restrictions as to subscribers to the debt.

The debate was renewed, and the question being taken on that part of the resolution which declared that the prayer of the Petitioners was reasonable, only *nine* Members voted in the affirmative. On the final vote that the petition could not be granted, of a House of fifty-three members, but *ten* were in favor of the petition.* This defeat was the more signal, as the opposition Gazettes had long teemed with reproaches on the injustice of the Author of the Funding System towards his fellow-Soldiers.

* Ashe, Baldwin, Gerry, *Giles*, Greenuff—Colonel Hartley—*Madison*—Mercer—Page—Treadwell.

CHAPTER LXXXIV.

It has been mentioned, that Hamilton had determined not to pursue further the criticism of Jefferson's conduct. To this he adhered; but the exposure he had made rankled in the implacable bosom of his adversary, and his followers reeled under it.

Alarmed at the charges made against him, the party of Jefferson was silenced, but it is one of the wise laws of our moral nature, for its own defence, that the habitually false becomes incapable of estimating the value of evidence.

The author of the first "Aristides" saw and felt the dilemma of his chief; he retreated from the controversy. The gauntlet was taken up by a less scrupulous partisan. After a long delay, another "Aristides" entered the lists, and occupied the position to which, it will be seen, Jefferson retreated as a place of refuge. He stated, that from Jefferson's letter, as to the transfer of the French debt to private citizens in Holland, in seventeen hundred and eighty-six, it appeared, that the extract given of it, was "false, deceptive, and mutilated." That Jefferson was "only the vehicle of communication to Congress." That "he discountenanced the proposition," and that "the only proposition which he made to Congress was to borrow the money in Holland to discharge the debt"

These assertions and the imputations they involved of the character of the accuser left no option to Hamilton. He again came forward to expose the weakness of the defence, and to exhibit the turpitude of the transaction. Two remaining numbers of "Catullus" were directed to the refutation of these averments.*

Hamilton appealed to the letter of Jefferson on the files of the Department of State—asserted, that the extract he gave was "taken *from the original letter* in February seventeen hundred and eighty-seven, and had been since preserved in the most authentic form, which was confirmed by another document of unquestionable authenticity." † "The extract," Hamilton remarked, "unequivocally *falsifies* the suggestion that Mr. Jefferson was *only the vehicle* of communication to Congress. It imports, without the possibility of evasion, *advice* to *accede* to the proposition which was made to the Dutch company, on the dishonorable ground of there being danger, that the public payments *would not be punctual*, and of its being in that case expedient to transfer the *discontents* which would arise from the want of punctuality, from the court of France to the *breasts of a private company*. It therefore clearly makes him more than the mere vehicle of communication—the patron and adviser of the measure upon the condition which has been stated. It as clearly refutes the astonishing assertion, that he "discountenanced" the proposition, whatever substitute may be brought to color it, and it equally destroys the other allegation, that the only proposition which Mr. Jefferson made to Congress, was to borrow the money in Holland to discharge the debt." "The statement," he adds, "dis-

* Works of Hamilton, Vol. vii. 64, 67, Nov. 24, Dec. 22, 1792.

† The Report of the Board of Treasury. Ante, Vol. iii. 92.

connects the two propositions" of the letter, "and gives them a distinct and independent aspect." He then asked, "why, if the version given is incorrect, a true extract is not given from the files of the Department of State, of which the party accused has the control?* Why does not a person, who, by undertaking to detect a minute verbal deviation, must be understood to have access to the original, instead of submitting to the public eye a literal transcript, content himself with giving his own paraphrase of it?" "While an artful attempt is made to bring into question the genuineness of the extract, a direct denial of its genuineness is not hazarded. Recourse is had to equivocal implications. It is said to be "false and deceptive," not in terms, but "upon a sound construction;" that the contents of the letter, *even in the extract published*, have been "*shamefully misrepresented;*" not that the extract is itself a forgery, but that "other parts of the letter absolutely necessary for the full comprehension of it are kept back." The jargon of asserting that a *literal* extract from a paper is "false and deceptive,

* A publication was then made, that "if any doubt should be suggested of the authenticity of the extracts published they would be immediately made accessible to others." In consequence of this, a person called on the Editor to obtain an inspection of these *originals*. He replied, that they had not been left with him, nor could he give the necessary information to direct the inquirer. A statement of this reply being prepared for publication, the Editor, the evening before its destined appearance, called to say that "the originals were now to be seen, and would be communicated,"—urging the withholding of the proposed statement, which was foreborne. On the 17th of November, the Editor was again applied to, when he said he must state to the person having the letters, the name of the applicant to inspect them. He subsequently said, he would again apply for the letters, and have them in his own possession to show them. Being again applied to for them, he annexed a condition which precluded the inquiry. An article signed, "A Plain Honest Man" then appeared, exposing these evasions. Hamilton's Works, vii. 74.

upon a sound construction," is a proof "of the embarrassment of the commentator."

Hamilton admitted that there was another proposition in the same letter, but denied, that it in any manner derogated from the advice contained in the extract. It is understood to have been offered as an alternative in case the proposition of the Dutch Company should not be approved, as another mode which might be adopted to effect the payment to France.

"It is curious," he said, "to observe the pathetic wailings which have been produced by the animadversions in these papers. They (the opposition) appear to think themselves authorized to deal out anathemas without measure or mercy against all who dare to swerve from their standard of political orthodoxy, which are to be borne without retaliation or murmur; and if any symptom of either shows itself, they are sure to raise the dismal cry of persecution—themselves the first to assail, and the first to complain. But what is not permitted to men who have so clearly established a title little less than divine, to a monopoly of all the patriotic virtues?" In closing these essays, he renewed his declaration of his readiness "to be known on proper terms to the officer concerned." It is, however, not meant to *invite* inquiry on that head. It is most advisable that none should be made. For any public purpose, none will be requisite. For any personal one, none will be proper. What shall be said, will merely apply to public conduct, and will be supported by proof and argument." He deemed a personal disclosure to any subaltern improper. "Though," he observed, "it is unnecessary, as the writer of the vindication admits in substance what is alleged; and as to his collateral statements, they imply more blame than was originally charged."

Apprehensive of the influence this disclosure might produce upon the President, Jefferson sent him *his* version of this letter, with this "observation." "Th: J—— *mentions only* to Congress the proposition of a Dutch Company to buy at a discount their debt (which was already in arrears in part and would be becoming due by large portions soon; and that it might perhaps be better, if the payment should not be punctual, to have a weak enemy rather than a strong one; and he believes that no man's morality or politics would oppose his making that choice between two adversaries; but instead of supporting this proposition, he *passes it by* and *makes another*, to go to Holland and borrow at once our whole debt, and pay it, without discount to our friends, who had saved us by their loans; which would retain the same advantage of giving us a weak instead of a strong enemy, in the event of a want of punctuality and would evidently give us other advantages, which it was not necessary for him to develop because known to Congress, to wit;—in making the new loan in Holland the lenders themselves would always insist that no part of it should be repaid under ten or fifteen years, and then by instalments, this would give time for us to get our government into a way of collecting money. There was also a possibility of a lower interest. But this writer suppresses the real proposition which Th: J. made, interpolates into it the words '*I submit whether*,' so as to make Th: J. propose the very thing he rejects. His proposition necessarily involved the obtaining longer time for payment. The one he is *made to submit* to Congress was to leave our friends under the loss of four millions of livres, and ourselves under the pressure of immediate payments or dishonor. His whole correspondence would show, that he was constantly urging Congress, by new loans, to ob-

tain further time, till the Government could become able to levy money. This simple letter has been selected, detached from the general correspondence, its real proposition suppressed; and the one to which it gives the go-by is interpolated, so as to make him propose an acceptance of the Dutch Company's offer."

Assuming this to have been the proposition actually made, it is observed, "it implicated its author in greater reprehensibility than had been charged upon him. It either presents an alternative proposition founded upon the supposition of a *state of things different from that which is the basis of the first*, the danger of a deficiency of means for punctual payment; and in that case, does not derogate from the first; or proceeding upon the supposition of the same state of things, it contains advice to Congress to avail themselves of the yet sound state of their credit in Holland, treacherously to induce individuals upon the invitation of the Government to lend their money *on the ordinary terms;* for the purpose of making full payment to France, in order to guard her from loss and preserve her confidence, in direct contemplation of not being able to render the stipulated justice, to those individuals.

This construction, and it is his own, "leaves" Jefferson's "conduct without even the slight extenuation which had been supposed to afford a semblance of apology. It takes away the feeble pretexts deduced from the offer having originated with the company, and from their gaining a considerable boon in the first purchase."* What the real character of Jefferson's advice was, no longer rests on the accuracy of the disputed extract. To Dumas, to Jay,† to Adams and to Madison, he wrote in terms, in-

* Hamilton's Works, vii., 70. † Ante, Vol. iii., p. 91.

dicating, not that he was "only the vehicle to Congress;" —not, "that he discountenanced the proposition;" but proving, beyond all question, that he regarded it as a desirable arrangement; that he was, both "the vehicle and the patron of it. These letters prove more; that he was the "*adviser*" of it, as Hamilton had charged.

On the first of February seventeen hundred and eighty-seven, Jefferson writes to Jay;* "In some of my former letters I *suggested* an opportunity of obliging the Court, by borrowing as much money in Holland, as would pay the debt due here, if such a loan could be obtained, as to which I was altogether ignorant. To save time, I wrote to Mr. Dumas, to know whether he thought it probable a loan could be obtained, enjoining on him the strictest secrecy, and informing him I was making the inquiry of *my own motion*, and *without instruction*. I enclose you his answer. He thinks purchasers of the debt could be found, with a sacrifice of a small part of the capital, and a postponement be obtained of some of the first reimbursements." He urges that Adams be employed on this errand.

"Besides," he writes, five months later, from Paris to Adams, then† in London, "endeavoring on all occasions to multiply the points of contact and connection with this Country, which I consider as our surest mainstay under every event, I have had it *much at heart* to remove from between us every subject of misunderstanding or *irritation*. Our debts to the King, to the officers and the farmers, are of this description. *The having complied with no part of our engagements in these* draws on us a great deal *of censure*, and occasioned a language in the Assemblé des

* Jefferson's Writings, ii., p. 92

† July 1, 1787. Jefferson's Works, ii. 172.

Notables, very like to produce dissatisfaction between us. Dumas being on the spot in Holland, *I have asked* of him some time ago, in confidence, his opinion of the practicability of transferring these debts from France to Holland, and communicated his answer to Congress, *pressing* them to get you to go over to Holland, and try to effect this business.—Your knowledge of the ground, and former successes, occasioned me to take this liberty, without consulting you, because I am sure you would not weigh your personal trouble against public good. I have had no answer from Congress; but, hearing of your journey to Holland, have *hoped* that some money operation had led you there."

"Is it not possible," he had just before * written in plainer terms, to Madison, "that the occurrences in Holland may excite a desire in many of leaving that Country and transferring their effects out of it, and thus make an opening for SHIFTING INTO THEIR HANDS, the debts due to this Country, to its officers and farmers. IT WOULD BE SURELY ELIGIBLE. I believe, Dumas, if put on the watch, might alone suffice; but he surely might, if Mr. Adams should go when the moment offers.* * * * Our credit has been ill-treated here in public debate, and our debt deemed *aprocryphal*. *We should try to transfer this debt elsewhere*, and leave nothing capable of exciting ill thoughts between us." †

Thus it appears, that the proposition which Congress so earnestly disapproved, and had formally ordered to be abandoned, as dishonoring the United States which his defender admitted, if he was guilty, "would render the accused unworthy of the confidence of his fellow-citi-

* June 20, 1787. Jefferson's Works. ii. 164.

† Jefferson's Writings, Vol. ii. pp. 164, 165, and 172.

zens," was made by Jefferson, as charged. That, to exculpate himself from it, his defender in concert with him, falsely, imputed to the inculpator, a mutilated version of this letter; that Jefferson sent to Washington his own version of this letter with an exposition which was untrue, but which, in reality, exhibits him in a still more reprehensible aspect—and that the proposition *emanated from himself!!* These facts also merit notice. The records of the BOARD OF TREASURY show the extract to be as quoted by Hamilton. All of the *letters* in the archives of the Department of State, addressed by Jefferson to Jay during his embassy at Paris are in his own hand-writing with his own signature, with the exception of this letter, all of which is in the hand-writing of his Secretary, certified by the Secretary, *both the letter and the signature.* That it is a copy of a letter prepared by Jefferson may not be denied, but that it is a true copy of the letter actually written by him to Jay, its contents disprove.

The original letter of Jefferson to Jay *is not now on file* in the Department of State. Why in this instance alone, was a certified copy of a dispatch of such importance not signed by its author—not in his hand, transmitted to the Government.—Would such an unauthenticated document have been deemed, without any mention of its character, the proper ground of so formal a censure by Congress? If the original letter was not transmitted to Jay, why was it not deemed sufficient to transmit a copy of it with the signature of its author? If the letter, of which only a certified copy is now on file, was a copy of the letter actually written by Jefferson, how has it happened that it differs from the extract on the secret journal of Congress, and also from the record of it by the Treasury Board. If the letter of which the copy now on file was the letter actually written, why, when so pointedly

demanded, was it not produced to vindicate its author and to confound his accuser?

The copy on file contains a paragraph not given in the extract.—In this paragraph, Jefferson states,—"I informed him" (the agent of the Dutch company) "that I could not judge what effect it" (the proposal) "might have on our credit, and was not authorized, either to approve or disapprove of the transaction." Had such a paragraph existed in the letter actually sent, would it not have changed the tone of Congress, and would not its author have referred to it as his vindication in reply to their censure? The absence of the original letter and the character of the certified copy on file, leave no doubt that the original letter was withdrawn, and that this certified copy of a different, fabricated letter, was substituted.

The turpitude of the proposition to "shift" a debt unprovided for and of doubtful payment, into the hands of individuals buying it, and perhaps, from "a desire," as Jefferson wrote, "of leaving their country under an apprehension of civil convulsions," and "of transferring their effects," is only greater than the intimation of the motive of France to part with it at a sacrifice—her urgent "necessities." "Should Congress," Jefferson soon after the date of this letter wrote to Jay, "think this subject worthy their attention, they have no time to lose, as the *necessities* of the Minister, which *alone* have made him *listen to this proposition*, may *force* him to a *speedy* conclusion." *

These are not all the pregnant facts. So solicitous was Jefferson to preoccupy the President's mind against any possible disclosure of this procedure, that in a for-

* Infra, iii. 92. Nov. 12, 1786.

mal report made to him a few months after he had entered the cabinet, he stated "I am of the opinion, *as I always have been*, that the purchase of our debt to France *by private speculators*, would have been an operation extremely injurious to our credit." *

The often repeated efforts to subvert the Financial system had been fruitless. The opposition saw it in successful operation. The late propositions to discharge the debt were of a nature to silence the distrust they had engendered by imputing to the Secretary of the Treasury a desire to augment it. They felt that in opposing it they had taken a false position, while the CHIEF of their Party stood unveiled before the world.

Abashed, humiliated, Jefferson now proposed to resign,† but his supporters would not listen to the fatal purpose. To him—to them, it would be absolute, utter ruin, to his adversaries a thrilling triumph. Who would, who could fill his place in the cabinet, so important to their ulterior plans? Who, like him, could hold the threads of party in hand? Who, like him, could spread his toils, and weave the web of deception around Washington?

If public attention could be diverted from the Secretary of State; if the imputations on the Secretary of the Treasury could derive color from legislative interference, much might be gained. It was resolved to make a show of impeachment.

This machination originated with Jefferson.‡ The

* Report by Jefferson, Aug. 26, 1790. Jefferson's Works, vii. 506. Congress Edition.

† Jefferson to Mr. Randolph. Nov., 1792.

‡ In reference to the proposition to pay off the debt of two millions to the Bank of the United States, Jefferson states, "I mentioned *suspicions*" (to the President) "that the whole of this was a trick to serve the Bank under a great existing embarrassment,"—that the debt was payable by instalment—"yet here

mode of proceeding was concerted between him and his useful friend. Madison obeyed Jefferson's behest, and prepared resolutions of inquiry into the conduct of the Treasury Department. Too timid to stand foremost as the antagonist of Hamilton, in a direct controversy, the introduction of the resolutions he confided to Giles. Not unwilling to be conspicuous, Giles undertook to play the cards put into his hand. But it was thought it would have a good effect, if others should open the game.

With this view, on the twenty-fourth of December, *two days after the last number of Hamilton's "Catullus" appeared*, while that part of his plan for the redemption of the Debt, which related to the reimbursement of the loan of the Bank of the United States, was under consideration, a resolution was introduced by Parker of Virginia, directing the Secretary of the Treasury "to lay before the House an account of the application of the moneys borrowed in Antwerp and Amsterdam for the United States, during the present year."

Three days after, a resolution was proposed by Giles, extending the inquiry, and requesting the President to cause to be laid before the House, a particular account of the moneys borrowed by his authority,—the terms of such loans,—the appropriations to which any of the moneys have been made agreeable to appropriations, and the balance, if any, which remain unapplied, specifying the times of the commencement of interest on each of said Loans, and when it was stopped by the several payments made.

were two millions to be paid them at once, and to be taken from a purpose of gratitude and honor, to which it had been appropriated." The particulars of this conversation may well be referred to, in connection with other preceding matter in Jefferson's Works, iv. 474, 475. It will be noted also, that it is stated to have occurred on the 27th *Dec.*, 1792—immediately after the attack on Hamilton in the House of Representatives was commenced.

This resolution was followed by one introduced by Grove, another member from Virginia, requiring from the Heads of each Department, a return of the persons employed in their respective departments, and the salaries allowed to each.

These combined attacks are alluded to in a letter from Hamilton to a friend in New York.* "I am sorry we have been deprived of the pleasure of seeing you. Every friend I see from a place I love is a cordial to me, and I stand in need of something of that kind now and then. The triumphs of vice are no new things under the sun; and I fear till the Millennium comes, in spite of all *our* boasted light and purification, hypocrisy and treachery will continue to be the most successful commodities in the political market. It seems to be the destined lot of nations to mistake their foes for their friends, their flatterers for their faithful servants. Adieu."

A reply to these inquiries was presented by the Secretary of the Treasury to the House on the third of January seventeen hundred and ninety-three, giving a statement of the several sums† borrowed for the use of the United States, the particular application of them, and of the balance remaining unapplied, to the first of January, seventeen hundred and ninety-three inclusively, and also a list of the persons employed in the several offices of his department.

The President submitted this Report to the Secretary of State. Jefferson seized upon this occasion to inflict a blow. He wrote to Washington, hoping thus to secure him to his purposed ruin of Hamilton, "The *most prominent suspicion* excited by the Report of the Secretary of the Treasury of January the third seventeen hundred and

* Jan. 15, 1793.

† The net amount of the Foreign Loans was 18,678,000 florins—obtained in six different loans, the three first at five per cent. interest—the fourth at four and half, and the remaining two at four per cent.

ninety-three is, that the funds raised in Europe, and which *ought to have been applied to the payment of our debts there,* in order to stop interest, have been drawn over to this country and lodged in the Bank to extend the special items, and increase the profits of that Institution." To sustain this imputation, he framed a statement essentially erroneous and almost unintelligible,* intended to show a balance in the Bank prior to the last draughts upon the foreign fund; another to indicate there was no necessity for such draughts; to confirm which statement he represented a deficit of the funds which ought to have been in the hands of the Commissioners, and "consequently supposed to be drawn into the Bank" of nearly two and a half millions of dollars.

The course of this matter is the more remarkable from the fact, that the discontinuance of the payments to France had been, within three months, expressly approved† by Jefferson and formally communicated by Hamilton to the President.‡ "We are informed," Jefferson writes officially to Gouverneur Morris, "by the public papers, that the late Constitution of France, formally notified to us, is suspended, and a new convention called. During the time of this suspension, and while no legitimate government exists, we apprehend we cannot continue the payment of our debt to France, because there is no person authorized to receive it and give us an unobjectionable acquittal. You are therefore desired to consider the payment as suspended, until further orders." The correspondence of Hamilton with Short shows, while he expressed a similar opinion, that he gave no positive orders, leaving to the functionaries of the United States in

* Works of Hamilton, iv. 334.

† Jefferson's Works, iii. 191. Oct. 17, 1792.

‡ Works of Hamilton, iv. 320, 328, 333.

Paris to judge and decide, adapting his arrangements to either contingency.

Hamilton's Report, under the supposition that the Resolutions of the House of Representatives only contemplated *foreign* loans, was confined to them, but lest greater latitude should have been intended, a supplementary statement was given on the tenth of January of *all* the moneys borrowed *within* the United States, and of the application of them pursuant to several acts of Congress.

On the fifteen of January, Resolutions were also adopted in the Senate, calling upon the Secretary of the Treasury—for a particular statement of the account of the United States with the Bank of the United States; for an account of the surplus revenue appropriated to the purchase of the Public Debt; for a statement of the loans under the acts of August, fourth, and twelve, seventeen hundred and ninety; and of the application of them;—and also for an account, exhibiting the probable surplus and unappropriated Revenue of the past year.

In compliance with this Resolution, the original books and documents of the Treasury were, on the succeeding day, transmitted to the Senate, showing all the particulars embraced in the inquiry.

With respect to the foreign loans, it was observed in a letter of the Secretary, accompanying these exhibits—"As they had been contracted in virtue of the powers communicated by both the acts authorizing them, without reference to either, it was of course impracticable to specify the loans made upon each;—that this mode of proceeding had been indicated by an intimation of the Dutch Bankers, that a distinction might prove an embarrassment, and by the consideration, that if the Loans were made upon both acts indiscriminately, their application could be regulated as circumstances should render ad-

visable." The letter closed with the remark "I suppose it would be most agreeable to the Senate to be enabled, as soon as possible, by the receipt of the information, to proceed to a decision in reference to the current service; —and, exposed as I am to *very perplexing dilemmas* for the want of the requisite appropriations, in consequence of arrangements which it was my duty to enter into, to be able, to keep pace with the exigencies of the public service, I could not but feel a solicitude to hasten the communication."

This intimation as to the powers under which the Loans were made, and of the impracticability of specifying the Loans made upon the authority of *each power*, opened a prospect of inculpation.

Four days after this Report, on the twenty-third of January, a series of Resolutions was introduced by Giles; —the first, requesting the President to lay before the House copies of the authorities under which the foreign Loans had been negotiated; the second, calling for information as to the payments of the French Debt; the persons by whom and to whom they had been made, and the date of the draughts on account of the Loans, and of the respective payments of the proceeds of those drafts; —the third, asked an account of the balances between the United States and the National Bank, and its branches;—the fourth, an account of all the moneys which had come into the Sinking Fund, specifying the particular funds from which they had accrued, and half yearly statements of the funds invested and where deposited; and the last, a statement of the balance of the unapplied Revenues at the end of the preceding year, whether in money or bonds, with a Report of all unapplied moneys obtained from the several loans authorized by law, and *where they were deposited.*

On introducing these Resolutions, Giles remarked, that they had grown out of his embarrassment in comprehending the Report of the fourth of January, which was increased in proportion to the attention he had bestowed upon the subject. To *obtain information* was their object, as immediately applicable to the proposition then before the House for a further Loan of two millions of dollars abroad, to reimburse the loan made of the Bank of the United States. The first Resolution had arisen from the Report showing the terms on which the loans had been made abroad, without a specification of the precise authority under which they were effected, and from the circumstance that the bill then before them contemplated a change of the destination of the money borrowed to pay the French debt, in consequence of the unsettled state of France. That the Report treated the same moneys as applicable to the Sinking Fund, but that, "it appears strange after express and distinct appropriations by law, that any misunderstanding relative to this object should exist."

The second resolution had arisen from that part of the report which exhibited the payments to France, but omitted the *names* of the persons engaged in these negotiations; and gave no statement of the time the public moneys had remained in their hands, it being evident, that, from the times the Loans were created to the times of the actual applications of the moneys borrowed, the United States were paying interest both on the Loans and on the Debt intended to be redeemed, a remark equally applicable to the payments of other foreign debts with the payments of the debt to France.

The third resolution had arisen from calculations drawn partly from the Report and the account with the National Bank, from which he inferred, that from the con-

tinued system of Loans, both abroad and from the Bank, while the proceeds of these Loans were lying unexpended in the Bank, that the Government had paid on the moneys borrowed from the Bank an interest of fifteen to seventeen per cent.

The fourth resolution proceeded on the ground, that the Treasurer's Report had stated a large residue drawn from Holland, as being "*applicable to the purchase of the public debt;*" that it was known, that the surplus of the Revenue * of the year seventeen hundred and ninety-one, was originally appropriated to the Sinking Fund; that the surplus of other appropriations had been applied to that fund, with the addition of the interest of the debt purchased; while it was also known, that only eleven or twelve hundred thousand dollars of the original appropriation had been invested in the purchase of the debt; that it was unaccountable, why the residue of the Loan should be drawn from abroad when the Sinking Fund was overflowing from domestic resources,—and when the probability of purchasing, from the rise of the paper and the limitations of the last Congress, was so much lessened.

The last resolution proceeded on a statement in the Report of the moneys drawn to the United States; that it gave no information of the balance on hand, nor where deposited; that from estimates derived from the account with the Bank, the Treasurer's Report, and other official documents, it appeared, that there remained *an unaccounted balance* of over one million five hundred and fifty-four thousand dollars; † that there was a discrepancy in the Report and in the Bank book, showing a much larger amount drawn for than was exhibited in the Report; and

* $1,374,656^{40}/_{100}$. † $1,554,853.

from another account stated by the mover of the resolutions, which was also given, after reimbursing the loan of two millions to the Bank, and meeting all the other demands of Government, it appeared there should remain a balance in the Treasury of six hundred and sixty-four thousand two hundred and sixty-three dollars.*

In conclusion, it was, among other things, observed by Giles, that all the papers from which these statements were collected might be deceptive or susceptible of explanation, yet, that "candor induced him to acknowledge that impressions resulting from his inquiries into this subject had been made upon his mind by no means favorable to the arrangements made by the Gentleman at the head of the Treasury department,—but that he should keep himself open to conviction, and now avowed that his acknowledgment of mistake should be at least commensurate to any conviction produced."

* That these resolutions, though suggested by Jefferson, and presented by Giles, were from the pen of Madison, as might be inferred from the peculiar complexion of them, is shown by the fact, that the *draft* of them with *alterations* exists in the State Department in *Madison's autograph*.

CHAPTER LXXXV.

JEFFERSON was now watching with intense solicitude the effect of this procedure. That it would be followed by an impeachment he could not indulge a hope, but should any countenance be given to it, he counted not a little on the impression it would make on the mind of the President. Should distrust of Hamilton be the consequence, his path was plain.

Though he had yielded to the entreaties of his partisans that he would remain in office until the close of the Session, the exposure of his character by Hamilton continued deeply to affect him. New hopes were now awakened, and three days after the introduction of the inculpatory resolutions by Giles, he wrote, stating the influences which had "shaken his determination to resign." "I feel," he now writes, "a possibility that I may be detained here into the summer. *A few days will decide.*" *

Meanwhile, with the combined objects of influencing the President, of stimulating the opposition, and in pursuance of the deep cunning which had prompted this inquiry—the diverting the public attention from the proven charge against himself—Jefferson's subservient presses teemed with articles of increased virulence against the Secretary of the Treasury.

* Jefferson to his daughter, Jan. 26, 1793. Randall, ii. 113.

Beside the accustomed topics of angry crimination, his whole policy of loaning was broadly censured. The system was false—its objects corrupt.—More was intended than appeared, and more was apparent than was generally seen. Were the liberties of the people to be surrendered without a struggle to the ambition of a man whose controlling influence nothing could escape—whose genius was equal to his ambition, and his boldness equal to his genius? Was not the Senate at his beck? In the House, had not the faithful representatives of the people in vain sought to resist his persevering assiduities? Was not the President himself the victim of his arts, and the instrument of his aspirations?

The prudential considerations which had so long restrained the masked enemies of Washington were now disregarded, and the President was rudely dragged into the political arena.

His personal popularity had hitherto rendered this a dangerous experiment, but it was supposed that a sufficient impression had been made on the public mind to warrant the hazard.—Clamors were forthwith raised against alleged purposes to introduce aristocratic orders, and the forms adopted by him in his intercourse with his fellow-citizens were adduced in evidence. The simplicity of Washington's habits, would, it might have been supposed, have protected him from any charge of arrogance; and the natural dignity of his character have silenced the imputation of any desire for any artificial importance, but the passions of the multitude were to be played upon, and it was well known, that, in no other mode, could their jealousies be more easily aroused. In this attempt the National Gazette took an active part. The history of Cromwell was there referred to. The people were taught to see in Washington "an idol;" were reminded "of the

ostracism of the Greeks;" and were alarmed with tales of "the Monarchical practices of Administration."

That such language should have been permitted by Jefferson may excite surprise; but overrating the President's sensibility to these personal attacks, he may have deemed it politic thus to indicate to him the necessity of withdrawing his confidence from the Secretary of the Treasury, now standing questioned before the Nation.

That officer required no official mantle to protect him, but addressed a series of communications to the House, in which the whole scope of his financial policy was explained; a full view given of the public accounts from the commencement of his administration, and every measure which had been taken by him minutely defended.

A REPORT in pursuance of the resolutions of Giles was presented by him to the House of Representatives on the fourth of February.

In his preliminary observations, after stating his efforts to comply within the shortest period, with the order of the House, Hamilton remarked, "that it was his first intention to submit these statements collectively, but finding on experiment, from the extent and variety of the matter moved, that more time would be requisite for a full development of it than he had anticipated, considerations of weight had determined him to present the different parts of the subject successively."

He then proceeded to observe, that "the resolutions to which he was to answer, were not moved without a pretty copious display of the reasons on which they were founded. These reasons were before the public, through the channel of the press. They are of a nature to excite attention, to beget alarm, to inspire doubts. Deductions of a very extraordinary complexion may, without forcing the sense, be drawn from them.

"I feel it incumbent upon me to meet the suggestions which have been thrown out with decision and explicitness, and while I hope I shall let fall nothing inconsistent with the cordial and unqualified respect I feel for the House of Representatives; while I acquiesce in the sufficiency of the motives that induced, on their part, the giving a prompt and free course to the investigation proposed, I cannot but resolve, to treat the subject with a freedom which is due to truth, and to the consciousness of a pure zeal for the public interest."

The REPORT then replied, in the first place, to the last of the Resolutions, because it was that which sought information relating to the most delicate and offensive of the suggestions that had been hazarded.

After stating the impossibility of a strict compliance with it, from the impracticability of obtaining, digesting, examining, and settling at the Treasury, all the accounts of the Revenues, receipts and expenditures of this extensive country within a period of twenty-three days, he submitted, a series of statements * which contained, as far as was at that time possible, all the information requisite to afford satisfaction on the points of inquiry.

The first statement exhibited in abstract the whole of the receipts and expenditures of the Treasury for the year seventeen hundred and ninety-two, showing the balance in the Treasury at the end of that year.†

The second gave a general account of the INCOME and expenditure, showing not merely the actual *receipts* of money into the Treasury, but the whole amount of the National Revenues from the commencement of the Government to the end of the year seventeen hundred and ninety-two, as well outstanding as collected; the pro-

* American State Papers Finance, Vol. i. 195 to 201.

† $783,144$^{81}/_{000}$.

ceeds of the Domestic loans, the whole amount drawn into the United States on account of the foreign loans, and all other moneys which had accrued * within that period. The Credit side of this account showed all the actual expenditures, leaving a balance exceeding five millions of dollars.

"A due comparison of the statements now presented," he remarked, "must obviate every idea of a balance *unaccounted for* in whatever sense the allegation may have been intended to be made." From the matter before the house, whose calls for information, had all been answered, he observed, "it could not with propriety have been alleged, that there was a balance unaccounted for. To infer it from documents which contained only a part of the necessary information was not justifiable, nor could it otherwise happen, than that conclusions wholly erroneous would be the consequence of taking such imperfect data for guides."

* Debit—amount received,	$17,879,825$^{33}/_{100}$
Credit—amount expended,	12,765,128$^{33}/_{100}$
Balance,	5,114,696$^{50}/_{100}$
viz:—	
1. Cash in Treasury,	$783,444 51
2. Cash in Bank of United States,	605,883 08
3. Proceeds of bills on Bank of America, including a Loan from that Bank *without Interest*,	177,998 80
4. Proceeds of Amsterdam bills sold, but not received,	614,593 02
5. Cash in hands of Collectors of Customs	151,851 25
6. Bonds unpaid, on account of duties falling due between Dec. 1792 and May 1794,	2,442,069 15
7. Uncollected duties on Spirits distilled within the United States,	341,057 17
	$5,116,897 00

The excess of which aggregate over the above balance proceeded from parts of this Account being necessarily *estimates*.

He then examined the items stated by Giles as the basis of the supposed deficiency. From this examination it was conclusively shown, that there was not the least foundation for the charge of a balance unaccounted for, but that the statement from which this inference was deduced was a "tissue of errors."

The Report next explained the alleged discrepancy between the Report of the fourth of January preceding and the books of the National Bank, by a minute statement, showing, that the whole was a mere operation to accomplish the purposes of that section of the act incorporating the Bank, which authorized a subscription to its stock of two millions, and a loan from it of an equal amount. This subscription was to have been paid out of the proceeds of the foreign loans. This operation in the accounts was adopted to supersede the necessity of actually drawing the money from Europe to meet this subscription, and of their remitting it again to pay the foreign debt. Having adverted to the loss avoided by this operation, he observed, "Is it not truly matter of regret that so formal an explanation on such a point should have been made requisite? Could no personal inquiry, of either of the officers concerned have superseded the necessity of publicly calling the attention of the House of Representatives to an appearance in truth so little significant? Was it seriously supposable, that there could be any real difficulty in explaining that appearance, when the disclosure of it proceeded from a voluntary act of the Head of this Department?"

To prevent any mischievous effect in the foreign loan market, Hamilton thus calmly wrote to Short on the fifth of February,* the day after the date of this vindicatory

* Hamilton's Works, iv. 338.

Report, "The spirit of party has grown to maturity sooner in this country than perhaps was to have been counted upon. You will see a specimen of it in the inclosed speech of Mr. Giles, a member from Virginia. The House of Representatives adopted the resolutions proposed by him, nemine contradicente. The object, with a majority, was to confound the attempt, *by giving a free course to investigation.*

"I send you, also, a printed copy of a letter from me to the House of Representatives, of yesterday's date, being the first part of an answer to those resolutions. The statements referred to in it could not yet be printed; but lest the thing should pass the Atlantic, and be made an ill use of, to the prejudice of our country, I send you the antidote, to be employed or not, as you may see occasion.

"An investigation intended to prejudice me is begun, with respect to the circumstances attending the last payment on account of the French debt, which in its progress may draw your conduct into question. I think, however, you need be under no anxiety for the result. Your hesitations, at a certain stage, were so natural, and your reasons so weighty for them, that they will give little handle against you, besides the coincidence in opinion here about the expediency of a suspension of payment. The popular tide in this country is strong in favor of the last Revolution in France; and there are many who go, of course, with that tide, and endeavor always to turn it to account. For my own part, I content myself with praying most sincerely, that it may issue in the real advantage and happiness of the nation."

The necessities of France had induced a recent application for three millions of livres on account of the debt, to be expended in the purchase of provisions within the United States to be sent to France. The application

was referred to the Cabinet. The simple questions were —how much was then due?—Did the condition of the Treasury permit the payment of the arrearages? If less were due, than was applied for, was it true policy to make payments in advance?

Jefferson, using this opportunity of aiding the impeachment he had instigated, presented an opinion, intended to give a bias to the mind of the President. On the twelfth of February, he wrote to him, enclosing "a statement of the questions which appeared" to him "to enter into the consideration of this application," adding, "some developments and observations necessary to explain their propriety and connection. As they relate to the affairs of another department, some of these ideas may be wrong. You will be readily able however to correct them from the information you possess, or may procure from that department. Still however, combining and weighing them with the ideas of others, and, most of all trying them by your own judgment, they may contribute to enable you to form an ultimate decision of what is right, in which decision no man on earth can have more entire confidence, than he who has the honor to be with sincere affection and respect."

The questions were skilfully propounded. 1. Has the legislature furnished the money? 2. Is that money in its place or has it been withdrawn for other purposes?—3. If it has, should we not take the first proper occasion of rectifying the transaction by repaying the money to those for whom the law provided it?—4. Is the application of France for *arrearage* or for an *advance?*—5. Have we money anywhere at command to answer this call?—6. If we have not, should we not procure it by loan under the act for borrowing twelve millions? Whether and how far we may venture to pay in advance?

The "development," as he calls it, made by him gave the total amount shown in Hamilton's report of the proceeds of the foreign loans; and averred, that the *total net proceeds* of these loans "may be considered as *appropriated to the foreign debt.*" It stated a large balance then existing in favor of the foreign fund; and drew the conclusion, that "the legislature had appropriated the money, and if it is not in hand, it is by the act of the Executive department;" that the Executive "has the power, but not the right to apply it contrary to the legal appropriations;" and that this power could only properly be exercised "in cases of extreme necessity."—The payment of the interest to the domestic creditors, one of the alleged causes, was not such case, but "is taking the money from our *foreign* creditors to pay it to the domestic ones, a preference which neither justice, gratitude, nor the estimate in which these two descriptions of creditors are held in this country will justify."—"The 'payment of the army and the daily expense of the government' might also be pleaded; but that the state of the Treasury, as officially shown, precluded such plea; and that nearly half of this balance applicable to the foreign fund had been drawn away, not to furnish present necessities, but parted with on a long credit. Why?" The conclusion was, "if it should appear that the legislature had done their part in furnishing the money for the French nation, and that the Executive departments have applied it to other purposes, then it will certainly be desirable that we get back on legal ground, as soon as possible, by pressing on the domestic funds, and availing ourselves of any proper opportunity which may be furnished of replacing the money to the foreign creditors.

"Does the present application from the French Minister furnish such occasion?" Whether the application

was for an *arrearage* or an *advance* is next examined. A proximate result to the actual arrearage was obtained; and it is suggested, if the funds to meet this arrearage were not in hand, that a further loan ought to be authorized. "A famine is probable in France. The Ministers there will throw the blame on any shoulders to clear their own. They will shift it on us before the tribunal of their own people. We have interests that will be injured by this. Such a charge on their part may raise one in this Country *on the Executive*. To what extent this may be pursued will depend on the events which will happen. The diversion of this money from its legal appropriation offers a flaw *against the Executive which may place him in the wrong*. To decide whether an *advance* ought to be made, it seems necessary to disentangle the foreign from the domestic fund, and then to judge when and to what extent to open a new loan." "Perhaps it may be well to pay part in advance, perhaps the whole, according to circumstances."

The fallacy of this contrived opinion is obvious. Of the two laws authorizing these loans, one appropriated two millions of dollars to the *purchase* of the debt. Thus only a *part* of the proceeds "may be considered as appropriated to the foreign debt," a part having been applied to the purchase of the domestic debt.—Though there was a balance in hand, it was only half the balance stated by Jefferson, and was applicable, either to the payment of the foreign debt, or to purchases of the domestic debt.

The surplusses of revenue did not "suffice" to the purchase of the debt. Though a large part of them was so applied, a part was by law expressly reserved to the payment of the interest on the domestic debt, in advance of the current revenue; other parts were reserved to

meet, and were applied to meet, the expenses of the Indian War, others to meet "extra exigencies," which in the affairs of a nation are every moment to be expected. As to the *arrearages* "equitably due" to France with the balance on hand, means could be provided sufficient to meet them as soon as required. No loan was necessary.

On the twenty-fifth of February* a cabinet council was held to consider the application of the French minister. The opinion of the Secretary of the Treasury states a sum† "which may not exceed the arrearages equitably due to the end of the year seventeen hundred and ninety-two; and that the *whole sum* asked by France may be furnished within periods capable of answering the purpose of the application, without a derangement of the Treasury."

The other members of the cabinet were in favor of furnishing the whole sum asked by France, Hamilton was of opinion that the supply ought not to exceed the sum he had stated. The motive of this limitation is given, that "no derangement of the Treasury" might result, the opinion of Hamilton distinctly looking to further supplies "within periods capable of answering the purpose of" the French Envoy's "application."‡

Nothwithstanding Jefferson's labored report, five days after, on the second of March, it was determined by the President with the concurring opinions of all the heads of departments and of the Attorney-General, referring to "a negotiation for changing the form of the debt to France, that the Government of the United States have

* Hamilton's Works, iv. 339. † $318,000.

‡ Randall, ii. 116, referring to this Cabinet opinion, states: "Mr. Ternant having applied for the payment of a portion of the debt due to France, to be expended in the United States for provisions, the cabinet decided (Feb. 25th, 1793) to accede to his request, *Hamilton alone dissenting.*"

made engaged payments to France to the extent which is at present consistent with their arrangements."*

On the thirteenth of February, the day after the date of the deceptive opinion of Jefferson, a second Report was made by the Secretary of the Treasury on the subject of the negotiation of the foreign loans, being a reply to the first of the Resolutions introduced by Giles. As to his *authority*, the documents showed that the immediate superintendence of the loans had been confided to him, subject to the special directions of the President.

As to the *persons intrusted* with the negotiation of them, that the bankers of the former government had continued to be employed, and that all the payments had been made by SHORT, the agent designated by the President. The Report then proceeded to a defence of the policy of negotiating the loans on the basis of *both* the acts authorizing them, which was expected to be matter of much cavil. These loans, it has been seen, were authorized by two acts, and Hamilton originally entertained the idea of founding each loan upon one or the other of these acts, but further reflection and the advices of the bankers determined him to abandon his original purpose, as being productive of embarrassment and inconvenience.

The propriety of the course adopted, and the great advantages of it, by enabling an early purchase of the domestic debt, thus producing a saving to the public, preventing its larger transfer to foreigners and accelerating its appreciation, were conclusively established. "If," he said, "a doubt had existed about the strict regularity of the proceeding, a mind sufficiently alive to the public interest and sufficiently firm in the pursuit of it, would have dismissed that doubt as an obstacle suggested by a pusil-

* Hamilton's Works, iv. 343, misprinted 443. Feb. 25, 1793.

lanimous caution to the exercise of those higher motives which ought ever to govern a man invested with a great public trust." "But," he adds, "if there be any want of *legality* in the plan which has been pursued, I was not at the time, and am not yet sensible of it. I know of no rule which renders it illegal in an agent, having from the same principal two authorities to borrow money, whether for one or different purposes, to unite the loans he may make upon the foundation of both authorities, provided the terms of them be consistent with both or either of his commissions. If the purposes are different, it will be incumbent upon him to take care that the application of the money borrowed makes the proper separation; and, doing this, he will have fulfilled his trust. To test this position, it seems, only necessary to ask whether the principal in such case would not be fully bound to the lenders?"

A view of the *terms* on which these loans were obtained followed, showing that they were all effected on terms equally favorable with those of cotemporary borrowing powers of the most tried resources and best established credit, and more favorable than those of others of great respectability;—that the United States took the lead in the market in the subsequent reductions of interest, in the course of a single year bringing the rate down from more than five and an half to less than four and an half per cent. Thus the terms were both "advantageous and honorable,"—the more so, when the borrower was a government of only three years existence, "so recently emerged from a total derangement of its finances."

Some delays had necessarily attended the application of these loans to their respective purposes, the causes of which delays are explained, and they are shown to have proceeded from the most prudential considerations, both

in regard to the public credit and of pecuniary advantage.

The propriety of drawing funds from abroad to aid the purposes of the debt, was controverted in the fourth of the resolutions introduced by Giles, as being done when the "Sinking Fund was overflowing from domestic resources, and when the probability of purchases was much diminished." These allegations were refuted, and it was shown that, but for this measure, the early purchases of the debt "could not have been hazarded;" and that at a late period, without this aid, the Treasury would have been in arrear nearly half a million of dollars, and the beneficial purchases of the debt suspended.*

Hamilton's last REPORT was unavoidably delayed until the nineteenth of February, and met the suggestion, "that the proceeds of the foreign bills drawn for to this Country, had no object of public utility, answered none, and were merely to indulge a spirit of favoritism towards the Bank of the United States." † After indicating the positive advantages of the measure, he entered into a

* Gallatin objected, that owing to the application of a part of the surplus of the revenue (by law applicable to the purchases of the debt or to the payment of interest) having been applied to the Sinking fund, a deficiency in that surplus, which was a domestic fund, resulted of $856,000 dollars; that this, being drawn from the foreign fund, and applied to the payment of that interest was illegal. This "illegality," he says, "did not consist in expending the moneys wrongfully but in carrying the expenditure to a wrong account!" Hamilton's report shows, that this very mode of keeping the account was selected, "to give greater latitude and energy" to the Sinking fund. "I trust," it adds, "there can be no doubt that the course pursued was regular and within the discretion of the department. I hope, also, that it will appear to the House to have been the most eligible."

† A pregnant comment on this allegation of favoritism to this Institution is seen in the difficulty of obtaining a loan from it for $800,000 dollars which was "necessary for the current expenditure," and was authorized by this Congress. . . Hamilton's Works, iv. 347, v. 550.

minute examination of the accounts of the Treasury with the Banks of New York, of North America, and of the United States; and showed that in transferring the pecuniary concerns of the government from the State Banks to that of the Nation, "a cautious regard had been paid to the convenience of the former institutions, and that the policy he had pursued, had incurred the criticism of too little solicitude for the interests of the National Institutions."

He added, that further examination, "will demonstrate that none of the establishments in question have received any accommodations which were not in perfect coincidence with the public interest, and in the due and proper course of events." "If," he remarked, at the end of this examination, "if delinquency can be attached to a non-employment of one or two hundred thousand dollars for a few weeks in the money operations of a Nation, it implies a minuteness of responsibility which could never be encountered with prudence, and never will be fulfilled in practice."

The propriety of the Domestic loans was next shown from the state of the Treasury at different periods; at one of which periods the amount in it, exclusive of these loans, only a little exceeded seventeen thousand dollars!—at another, it would have been deficient more than an hundred thousand dollars, and at the date of the Report would but a little have exceeded twenty thousand dollars! These loans were therefore "necessary to the public service and were obtained with a due regard to economy." The residue of this voluminous document, indicated other, if possible, more gross and palpable errors in the statements of these Resolutions.

Notwithstanding this full and conclusive vindication, Madison writes, "You will have discovered from the

newspapers that a pretty interesting scrutiny has been started into the administration of the Treasury department. The documents furnished, show, that there has been, at least a very blamable irregularity and secrecy in some particulars of it, and many appearances which at least require explanation. With some, suspicions are carried very far—others resolve the whole that is wrong into favoritism to the Bank, &c., whilst the partisans of the Fisc. either see nothing amiss, or are willing to ascribe every thing that is so, to venial, if not, laudable motives." * The consciousness of having violated his voluntary pledge to Hamilton as to the fiscal policy to be pursued, and the recent exposure of his agency in establishing the National Gazette, may well be supposed to have embittered the hostility he evinces towards a man with whom he had been on terms of closest confidence and friendship.

* Feb. 23, 1793.

CHAPTER LXXXVI.

It not unfrequently happens in the course of human events, that calumnies, long and widely circulated and more or less believed, are, by the blind malice of the calumniators conspicuously and absolutely disproved, and a lasting stigma fixed where it belonged.

Such was the effect of this inquiry. So complete was Hamilton's refutation of these charges that a general indignation burst forth from Congress, while dejection, mortification, shame, sat upon the countenances of his adversaries.

The chief object, that of exciting distrust in the bosom of the President, towards the man who had so long and fully enjoyed the honor of his confidence, had utterly failed, and an astounding, most unexpected result had been produced. On the seventh of February, Jefferson relates,* he announced to the President, that he "should be willing, if he had taken no arrangements to the contrary, to continue" in the cabinet "somewhat longer, how long he could not say, perhaps the summer, perhaps autumn," and that the President expressed his satisfaction at this change of purpose, and his apprehensions that his retirement would be a new source of uneasiness to the public."

* Randall, ii. 113.

Recently as he records this satisfaction to have been expressed, on the twentieth of February,* the day after the date of Hamilton's last Report,† a statement of Jefferson shows Washington's willingness to be relieved from his presence. The mode he proposed, it will be hereafter seen, was the same with that resorted to when he sought to remove his influence beyond the United States—his being appointed to a foreign mission.

Complaints of Gouverneur Morris, Jefferson relates, had been made by the French minister. His recall might be necessary. A vacancy would happen. The President now observed to Jefferson, that "though" he had "unfixed the day on which" he "had intended to resign, yet" he "appeared fixed in doing it at no great distance of time, that in this case *he could not but wish* that" he "would go to Paris, that the moment was important." Jefferson also relates, that he declined for the reason that he "was so bent on retirement, that he could not launch forth on a new business, that he could never again cross the Atlantic, and that, as to the opportunity of doing good, this was likely to be the scene of action, as Genet was bringing new powers to do the business here, but that he *could not think of going abroad.*"

The embarrassment of Jefferson and of his partisans must have been extreme. They felt that they had furnished a triumph to their great adversary.—Hamilton was beyond their reach.

Yet not to prosecute the inquiry would be too unequivocal an admission of the utter groundlessness of their imputations. To prosecute it to a decision must render his triumph more absolute. In this dilemma, it was de-

* Randall, ii. 116.

† A minute from Washington's Writings shows that Hamilton made it a rule to transmit to the President, copies of his Reports made to Congress.

termined to pursue the same course which had been taken with respect to the inquiry into the causes of the defeat of St. Clair—to defer bringing the subject forward until the last days of the Session—*too late* to be definitively acted upon, and thus to gain all the advantages to be derived from having placed the Secretary of the Treasury before the public as a culprit, whose guilt had, at least, not been disproved.

The constitutional term of Congress would expire on the fourth of March; Giles waited until the twenty-eighth of February before he moved in this matter.

He then introduced nine Resolutions. Of these, the two first contained abstract propositions.—That it was essential to the due administration of the Government of the UNITED STATES, that the law making specific appropriations of money should be strictly observed by the administrator of the finances; and,—that a violation of an appropriation made by law was a violation of that article of the Constitution which requires, that no moneys shall be drawn from the Treasury, but in consequence of appropriations made by law.

The third, pronounced the application of a portion of the principal moneys drawn under the act of the fourth of August seventeen hundred and ninety to the payment of interest on that principal, and the drawing a part of these moneys, without the instructions of the President, into the United States, a violation of that Act. The fourth, inculpated him for having deviated from his instructions in executing the authorities for making loans.

The fifth, imputed to him an omission of duty in neglecting to give due official information to Congress of the moneys drawn from Europe, and of the causes of such drafts.

The sixth, charged him with having drawn, without the instruction of the President, more money than the President was authorized to draw, under the act making provision for the reduction of the Debt; and with an omission of duty in not giving information to the Commissioners of the Sinking Fund of the various sums drawn, suggested by him to have been intended for the purchase of the Debt.

The seventh, charged him with a disregard of the public interest in negotiating a loan from the Bank of the United States, and drawing therefrom, four hundred thousand dollars at five per cent. interest, when a greater sum was deposited in various of its branches, at the times of making such drafts.

The eighth, asserted, that an indecorum had been committed by him towards the House in undertaking to judge of its motives in calling for information; and that he had failed to give the necessary information within his knowledge concerning certain specified objects of inquiry.

The ninth, directed that a copy of these Resolutions should be transmitted to the President!

A motion was made by Giles, seconded by Findley, that these *Resolutions* be referred to a Committee of the whole House.

This motion was objected to by Vans Murray. He declared, that a more unhandsome proceeding he had never seen; that every rule of justice and all that delicacy which ought to attend her progress had been disregarded, and, in the very first instance, a number of charges are brought forward, not for inquiry but for conviction, which, if sanctioned by a majority of the House, are to be followed by the dismission of one of the highest officers of the Government.

This mode was as tyrannical as it was new, and, if

any thing could throw a bias against the Resolutions, independent of inquiry, it was the partial and unjust form in which the proceeding had commenced. Under these views, he approved a reference of the Resolutions to a Committee, and expressed a hope, that the questions arising upon them might be decided by the House.

The friends of Hamilton were resolved, that no pretext should exist for the allegation that any impeachment had been interposed to the freest scope of inquiry, and by a vote of forty members their immediate consideration was ordered.

A proposition was then made to refer the two first Resolutions. This was opposed on the ground, that they were abstract propositions; and although they might contain self-evident truths were subject to modification in their application to particular circumstances;—that the discussion of them would postpone and perhaps preclude a consideration of the main object,—the charges against the Secretary of the Treasury;—that the position in the first Resolution, as a general rule, must be admitted; yet there were cases of sufficient urgency to justify a departure from it;—that there must reside somewhere a discretionary authority to be exercised for the public good, and that therefore the declaration in this Resolution, that it was essential to the due administration of the Government, that laws making specific appropriations should in *all cases* whatsoever and under every *possible circumstance* be strictly observed, was not correct.

The propriety of the second Resolution was pronounced still more questionable. A law making appropriations might be violated in various particulars without infringing the Constitution.

The reference of the last of the Resolutions was also opposed. Its object went directly to instruct the Pres-

ident to remove the officer inculpated; thus the former Resolutions were to determine his guilt; the last to inflict the punishment, and both, without the accused *being heard.* This would indeed be a palpable violation of the Constitution. *That* has prescribed the mode of proceeding against a great public officer. He is to be impeached by a majority of the House;—tried by the Senate under oath;—convicted only upon the sentence of two-thirds of it. Such are the solemnities and guards by which he is protected, and which precede a sentence, the only effect of which is his removal. Yet these Resolutions, if approved, would condemn to infamy, without affording him an opportunity of vindicating his character and justifying his conduct, a high functionary, and would be an instruction to the President to dismiss him.

The proposal to refer the first, second and ninth Resolutions was negatived, only thirteen members voting in its favor.

The residue were immediately referred to a Committee of the whole House.

They were defended by Giles, Findley, Mercer and Madison, and opposed by Smith, Lawrence, Livermore, Lee, Hillhouse, Ames, and Boudinot.

The question being taken on the third Resolution, it was lost by a vote of thirty-eight to fourteen.

This result being regarded as decisive of the sense of the body, Giles proposed to *withdraw* the remaining Resolutions. Steele insisted on taking a vote upon them all; and the Chairman decided, that they could not be withdrawn, they had been referred to the Committee, and a Report must be obtained.

A vote on the fourth Resolution was then taken, and it was lost without a division. The fifth gave rise to a short debate. Findley, Mercer and Madison were again

replied to by Smith, who dwelt particularly on the inconsistency of the arguments advanced by Madison; stating, if his premises were admitted, that the reasons adduced by him in support of one Resolution were directly irreconcilable with those, urged by him, in his efforts to sustain another. It was negatived by a vote of thirty-five to sixteen. The other resolutions were rejected without a division.

On the first of March, the Report of the Committee being considered, by the House, a vote was taken upon each Resolution. On the third Resolution, the division was forty to twelve; on the fourth, thirty-nine to twelve; on the fifth, thirty-three to fifteen; on the sixth and seventh, thirty-three to eight; and on the eighth, thirty-four to seven. Those in favor of the sixth and seventh resolutions were Ashe, Baldwin, Findley, Giles, Macon, Madison, Mercer (who inculpated the President, also) and Parker. It is to be remarked, that Madison voted for *them all.*

He warmly declared, that "his colleague,* had great merit in having brought about this development.—He had rendered a service highly valuable to the Legislature, and not less important and acceptable to the public."

The defence made by Hamilton was fully confirmed in the course of the debate. It has been seen from the tenor of the Resolutions for an inquiry, that the serious imputation of a BALANCE UNACCOUNTED for had been ABANDONED. The other charges were founded upon theories

* The fact previously mentioned, that Madison framed these resolutions was stated by Giles to Rufus King.—Among Madison's papers may be seen minute extracts from and comments in his own hand upon Hamilton's Report and correspondence; a copy of which is in my possession. Ames writes, "Madison is become a desperate party leader, and I am not sure of his stopping at any ordinary point of extremity."

as to the conduct of the Finances which it would have been impracticable to have acted upon. They only served to draw forth developments, and to enable Hamilton to record the evidence of his administration, in which, while governed by the largest views, nothing, the most minute, was omitted, that would promote the public interests.

The temper in which the debate was conducted shows the relative positions of the parties.

Professing a desire to give to the inquiry a fair direction, the enemies of Hamilton endeavored to conceal the hostility which had prompted it, but their leader Madison, well knowing the stern sentence of reprobation which history would pass upon him as a party to this wanton persecution of a former friend, lost all self-possession. Disappointed and enraged, he declared, that the opinion of the House would not change the truth of the facts, and that the public would ultimately decide upon the criminality of the Secretary's conduct,—thus appealing from the tribunal he had himself selected.

"This," Smith remarked, "was like the conduct of a prosecutor, who, having chosen his jurisdiction, and being nonsuited, wished to appeal elsewhere. Why were the Resolutions brought before the House? Was it not to substantiate the truth of them by a vote? And had the prosecution succeeded, would the Secretary have had an appeal to the public? No.—The Resolutions would have been sent to the President, and the Secretary would have been removed, disgraced, and ruined forever, without appeal."

The supporters of the administration, indignant at this attempt to tarnish a character, in which they had unlimited trust, manifested mingled emotions of defiance, of triumph, and of scorn.

The closing remarks of Boudinot exhibit the feelings of that calm and elevated man.

After a full and minute investigation of the arguments of the opposition and of the vouchers before the House, he remarked: "These are the facts that have convinced my mind, at first much alarmed at the severity of the charges and the positive assurances of gentlemen, that discoveries would be made showing corruption at the very heart of the Government.

"These have convinced me fully, that this prosecution has been rashly brought forward without proper examination of the transaction. My mind, in a conscientious research into the facts, has not been able to raise a doubt on which to found even a suspicion of the integrity and abilities of the Secretary in this whole negotiation.

"So far am I from considering these charges supported by testimony, that I consider the conduct of the officer concerned in this transaction not only wholly cleared up, but the measures he has pursued as stamped with wisdom and official knowledge. So far am I from judging him reprehensible for the manner in which he has negotiated and applied these loans, that I think him deserving of the thankful approbation of his country for his economy and strict attention to the true interests and credit of the United States.

"I rejoice, Sir, that after so full and zealous an investigation, this officer, though unheard, appears to be free from even a suspicion of malconduct in the whole transaction. This is not only honorable to him, but does credit to our Country. On the whole, therefore, I am decidedly against the present resolutions, and shall give them my hearty negative."

The feelings which these proceedings awakened in Congress were in unison with those of their constituents.

Relieved from the anxiety which the bold assertions of his adversaries had excited, the citizens of Philadelphia

thronged to Hamilton's residence, day after day, offering their gratulations on his triumph. Among these the Quakers were conspicuous.

From different quarters of the Union letters were addressed to him evincing how deep and strong were the public affections.

It was feared that he might resign. "You are, my good friend," one of the most intelligent of his correspondents* wrote to him from Virginia; "You are too well acquainted with mankind to expect that you are to proceed in the administration of an office so efficacious in the operations of a government, as yours, without being constantly exposed to attacks. All that you can do, is to shield yourself, as you have done, against ultimate injury, by a steady exercise of your best abilities, and manifesting in every act, an integrity that even your enemies have not, in all their complaints of the pernicious tendency of your measures, ventured to call in question.

"You have this consolation, that do as they will with the further progress of your systems, they have proceeded far enough to evidence the solidity of the principles on which they are laid, and the ability with which they were set in motion. If they continue in their natural course, they will be at last, your most certain vindicators; if they meet with such interruptions as to destroy them, worse measures, I apprehend, will often force the reflections of the people back upon them."

Another friend † also wrote him—"The part the Country in general take in your triumph over the envious and malicious enemies to the government as well as yourself—must convince you that the influence of those

* Col. Carrington.

† Hamilton's Works, v. 548. Boudinot to H.

beings extends but a little way out of their own selfish, narrow circle. * * * Do not let these pompous, high-minded, *would-be kings*, though under the false garb of republicans, draw your attention from this great object,* but look forward to those tranquil days when this child will be a Hercules, and you, settled on the beautiful and peaceful banks of the Passaic, enjoying the fruits of your labor."

An allusion to the effect upon his health of the work of preparing this vindication is seen in Hamilton's last report. During the time devoted to this purpose, he remained at his residence; performing there such official duties as could not be postponed. His only relaxation was in short intervals of pastime with his children. At one of these moments Cabot was admitted. He found him playing at marbles;—indulging in sportive jests and careless merriment,—his uncombed hair and haggard appearance only betraying his late vigils and exhausting toils.

The extent of his labor may be conjectured, when it is considered within how short a period the comprehensive and minute expositions of the whole state and policy of his Financial system was prepared, exhibiting a force of intellectual effort which, even among those who knew him best, caused no little surprise.

On the fifteenth of March, he thus closes a letter to Short: "The inclosed extract from the minutes of the House of Representatives, will inform you of the result of the affair about which I wrote to you, not long since, by way of England. 'Tis to be lamented that already the spirit of party has made so great a progress in our infant republic; but, it is at the same time, a source of congratulation, that it, as yet, has its bounds; and that

* The Manufacturing Works at Paterson.

there are many who will only go a certain length in compliance with its dictates."

It has been seen, that the House of Representatives had postponed the bill which provided for the payment of the loan made of the Bank of the United States. The course of the opposition led to the opinion, that it was their intention to defeat any law making provision for this debt. This the Senate resolved to prevent; and with that view introduced an amendment in the appropriation act. This amendment vested a discretionary power in the President to pay off the debt due to the Bank in limited instalments, having reference to the public exigencies, and to the state of the Treasury; and also authorized a further loan to be made, in anticipation of the Revenues, to be paid out of the surplus of the current year.

The grant of this discretionary power was opposed in the House of Representatives, as not being properly limited. It was objected, that the provision for paying off this debt was irrelative to the proper idea of an appropriation bill, and that it was an arrangement to pay to a public institution a debt not due, in preference to individuals whose demands were due.

In reply, it was observed, that this amendment contemplated a provision in a case which had been the subject of complaint by those who now oppose it. That it vested a power in the President to employ from time to time, the unappropriated Revenues to discharge the debts of the Nation, so that those revenues might not remain unemployed. That the public moneys had been dormant and useless, (which it was denied ever had been the case,) had been a topic of much declamation. Now that an unexceptionable expedient is proposed, in order to guard against such a contingency, the opposition is continued from the same source. After a long debate, the amend-

ment of the Senate was concurred in. This vote was followed by the enactment of a law expressly providing for the reimbursement of the loan made of the Bank.

The first section of the bill authorizing a loan of two millions of dollars, obvious as the advantage of this loan had been shown in the answer to the previous inquiry, was expunged; and the act was so amended as merely to authorize the payment of the first instalment.

Barnewell,* a true man, observed, "as he had been in favor of making the loan of two millions, he thought it due to himself and to the Committee to state the reason which induced him to agree to the motion for striking out this section. It is because there is not time during the session to go into such an investigation of the subject as it merited. Such an investigation, he was persuaded, would convince every unprejudiced mind that it would be for the interest of the United States to effect the loan."

The payment of the whole loan from the Bank would have produced a saving equal to a capital of four hundred thousand dollars, and would have provided, in the difference of interest saved, one of the means of constituting the annuities previously proposed by Hamilton in his plan for the Redemption of the Debt. To refuse it might defeat this plan.

Madison was in favor of striking it out. "Setting aside," he remarked, "the consideration, that the United States are not under obligation to discharge the whole sum at the present time, he doubted the policy of making loans at that moment, when the question whether any saving could be made is problematical, considering the rate of interest in Europe. He thought it probable, that,

* Jefferson to Edward Rutledge, Aug. 25, 1791: "I wish you may be able to convert Mr. Barnewell because you think him worth converting."

before the time came round when the United States might be obliged to discharge the whole of this debt, money may be obtained on more advantageous terms than at present, if it should be found necessary to borrow." In the situation of Europe at that time this was a bold anticipation.

A bill was also passed, extending the time of subscribing to the Domestic Debt. The acts for the Collection of duties—for the Registry of Vessels, and for the Regulation of the Coasting trade were amended, in pursuance of Hamilton's suggestions. A bill, which had passed the Senate, during the preceding session of Congress, for the regulation of the value of Foreign coins, when circulated within the United States, also became a law; and a very important act, carrying into operation the humane policy Hamilton had advised, was passed, to regulate the "Intercourse with the Indian Tribes." By this act, every trader with them was required to obtain a license from the government under severe penalties; attempts to settle or survey their lands were rendered criminal offences, purchases of these lands were declared void, unless made by a treaty or convention in pursuance of the Constitution, and unauthorized persons engaged in treating for them were declared guilty of a misdemeanor. The jurisdiction of the Courts of the United States was extended for their protection; and, in order to promote their civilization and preserve their friendship, the President was authorized to provide them with domestic animals, implements of husbandry, goods, and money; and to appoint temporary agents to reside with and protect them. A law was also enacted to promote the progress of the useful arts.

The same day in which this salutary measure was adopted, a bill making further provision for securing the

collection of the duties on foreign and domestic distilled spirits was brought before the House. The importance of removing every objection to the law for raising an internal revenue, familiarly called the "Excise" act, had been acknowledged at the preceding session. Subsequent events had manifested its necessity, and the bill now presented to Congress had been framed by Hamilton with especial care.

Resolved to thwart every proposition emanating from him, Madison moved to postpone it, stating the impossibility at that time of investigating its principles. A second reading was nevertheless ordered, and its consideration was resumed on the last day of the session, but the lateness of the period compelled the postponement of this subject of dangerous interest.

On the third of March the term of the Second Congress expired. On that day Jefferson wrote thus,* commenting on the result of the Fiscal Inquiry; "The negative of *palpable truth* would be of service as it would let the public see how desperate and abandoned were the hands in which these interests were placed. * * * * A full representation at the ensuing session will doubtless find occasion to revise the decision, and take measures for raising the authority of the laws over the corrupt manœuvres of the Heads of Departments under the pretext of exercising discretion, in opposition to law."

Ames† also wrote: "The session of Congress has not been very efficient. The acknowledged object of the opposition is to prevent any important business being done. They pretend that the new House will be more equally representative." * * * * "The calls on the Secretary of

* Jefferson to Thomas Mann Randolph, March 3, 1793.

† Works of Fisher Ames, i. 128. Feb. 20, 1793.

the Treasury,—the pretexts against the purchases of the public debt on terms to hold up the credit of the United States, (a declared object of the law ;) the proceedings of the Committee on the subject of St. Clair's failure; all the party do and all they say,—and the manifestoes of their 'National Gazette,' indicate a spirit of faction which must soon come to a crisis. I do not hesitate to declare my belief, that it is not intended by the leaders to stop at any temperate limit. They set out, sour, suspicious and with an ambition that places in the Government might soothe. But, in the progress of things, they have, like toads, sucked poison from the earth. They thirst for vengeance. The Secretary of the Treasury is one whom they would immolate; Knox another. The President is not to be spared. His popularity is a fund of strength to that cause which they would destroy. He is, therefore rudely, and incessantly attacked. Every exertion is making, through their Gazette, to make the people as furious as they are themselves."

Amid all this excitement, the result of the Presidential election was ascertained. As Hamilton had anticipated, the opposition did not dare to incur the resentment of the American people. Washington was re-elected by their unanimous voice, and Adams by a majority of seven votes.*

* The total vote was 132, Adams had 77, Clinton 50, Jefferson 11, Aaron Burr 1.

CHAPTER LXXXVII.

The recent attack upon the Secretary of the Treasury amazed the nation, for never in the moments of highest party excitement was his integrity honestly questioned. It would have amazed him, had he not been aware of the intense desire of the opposition to effect ulterior objects to which his influence was an insuperable obstacle.

The admonition in the speech at the commencement of the previous Session, that "*timely* provisions should be made to guard against infractions by our citizens of the peace with other nations, and to put ourselves in a condition to give that satisfaction to them which we may sometimes have occasion to require," was peculiarly offensive to his adversaries, and was designedly disregarded.

How wise that admonition was, the events of this period show.

The extraordinary scenes passing in Europe,—the convulsive efforts of France; the declaration of her Minister, that "the four corners of Europe must be in flames before her power could be established," the means to which she had resorted of exciting the people against their own government—the confederacy of Europe against her—all concurred to confirm the wisdom of

Neutrality, and all indicated the difficulty of adhering to it.

Unsuccessful as previous efforts had been, to protect a neutral trade from the collisions of belligerent nations, Hamilton still believed, that by a strict observance of the duties which neutrality imposed, this great object could be attained. In the peculiar situation of the United States, with a yet infant and extremely complex government, an exemption from War was not less necessary for the improvement of their physical resources, than to the development of their political institutions. Upon the preservation of *peace*, he might well believe that the success of this great experiment of a Republican government would essentially depend.

Exclusive of the dangers of war from the acts of the belligerents, a great, and almost insurmountable difficulty was to be overcome in the activity of the leaders of a wide-spread internal party, devoted to the interests of France. Though they had seen the independence of the United States jeoparded by the selfish councils of their Ally; rigorous commercial restrictions, in disregard of frequent assurances of attachment, strictly enforced; advances towards a more liberal policy met with insult and even menace; these leaders had lost none of their foreign predilections or prejudices.

They rather cherished them the more, relying confidently, for their own elevation to power, on a successful abuse of the feelings of the American people, who, first swayed by gratitude to France, were now impelled by the noble sympathy which a love of liberty inspired towards a nation, struggling to free itself from the thraldom of ages.

The conduct of Great Britain had excited suspicion. Without investigating the causes which delayed the execution of the Definitive Treaty, this delay was believed to

be connected with purposes hostile to the integrity of the Union. France also had assumed the name of a Republic, and England had become a party to the wars against her.

This was regarded only as another instance of her hostility to freedom, and thus, by a large portion of the American people, an ardent affection to the one and unrelenting hatred of the other, were esteemed the requisite evidences of genuine patriotism.

These feelings were most manifested by the opponents of the Constitution. Their jealousy of due vigor in the government had been fanned by their chiefs. The measures of the administration had been denounced as servile imitations of the English policy, as covering deep laid designs to approximate the American Institutions to those of their recent oppressor; and, by a gradual usurpation of power, to erect a Monarchy, if not in name, in effect, upon the ruins of the prostrate Republic.

Of all the passions, none are more apt to unite, and when united to have a more powerful influence than Fear and Jealousy.

Incapable of estimating, they exaggerate danger. Unwilling to resort to open means, their resources are calumny and fraud, and secret violence. The very concealment under which they lurk gives their furtive existence growth; and their power and venom are discovered at the moment when the antagonist is least prepared and least able to defend itself.

These are the passions upon which Jacobinism was built. They were its constituent, its vital principles. Varying in intensity, taking different forms, they are still detected in every stage of its progress, from the first feeble efforts of covetous envy, until ripened into all the maturity of rapine and of crime. Assuming the absolute

equality of man, it admitted no superior, and overturned every barrier which checked its advance to universal sway.

Never had its power been more complete than in France. While her mad, reckless carousals appalled every virtuous sentiment, she held out, by her successes, temptations, and indicated the means of gratification, to every ill-regulated mind in Europe and America.

The conflagration of the social fabric glared gratefully on the eye of the Incendiary. The abrogation of Law promised unlicensed indulgence from all human restraint; and the tenacious control of conscience, was loosed by the impious and insane declaration, "that there was No God."

Instead of the sword of Justice and the Altar, the knife of the guillotine and the Revolutionary Tribunal were raised; and from this were addressed homilies on the virtues of man, and invitations to fraternize with France, as assuring the happiness of his race.

To delude, to flatter, and to poison, were necessary to the preservation of the Jacobinic influence. Familiarity with crime, though it did much, was not all-sufficient; what little was left of reason, required a pretext and an object; and the more unlimited and indefinite that object was, the more extravagant were the means it authorized.

The American people were told, that "the mystery of iniquity began to be unveiled, that ignorance and superstition were rapidly retiring before the illuminating influence of common sense, and that tyranny was literally retreating before the rights of man." *

That such language should have quickened the passions of Europe was not strange. There was enough of abuse there to justify discontent; but the United States

* Jefferson's National Gazette.

presented a widely different spectacle. Fresh, and youthful, and vigorous, and buoyant, confidence was the proper growth of their condition. Prosperous as they were, the future presented a boundless scene of expanding happiness.

All that was required was time and virtuous energy, to exert the powers of the Nation; and before the generous mind, its destinies swelled to the fullest dimensions of national pride and affection.

Its young horizon was all sunshine; nor could it be supposed, that it would have looked but with apprehension upon the deepening and reddening halo which encircled France, and was full of portent to the world.

But its effect was widely different. The successes of her arms were regarded as a propitiation for her crimes. Masking her ambition under an affected regard to Liberty, the true attachment of Americans to that sacred cause excused the means for the end. Her braggart tone was applauded,—her false philosophy approved—her innovations upon manners admired and imitated. All the benefits of experience;—all the value of virtue and of faith were a cheap sacrifice for two abused words, then of fearful meaning, "Liberty and Equality."

To give direction to this state of feeling, so propitious to the opponents of this Government, was not difficult. The Gazette of Jefferson had taken the lead, and it was followed by all the affiliated presses. That such should have been his course is not surprising, when his recent conduct at Paris is adverted to, and from his avowal, that a strict "connection with France had been his Polar Star." *

His Gazette commenced its career upon this subject with the same insidious policy which had marked its assaults upon the system of Finance.

* Jefferson's Works, iv. 474.

Scenes most adapted to awaken the jealousies of the public were aptly selected; prophecies of the downfall of European Institutions were skilfully framed so as to bear upon the American establishments;—analogies between the progress of England to a national bankruptcy and the anticipated consequences of the Funding System and the Bank, were adroitly indicated; and thus the American mind was accustomed to assimilate the action of their own Government to the systems of older nations; and to see, in every movement of the administration, snares and pitfalls in which their liberties were to be entrapped.

Nor was it enough to awaken the jealousies of the people, their pride was to be flattered. They were told, that America had been too slow, too grave in her proceedings, that the evils under which they suffered were the consequences of imperfect light, and they were taught to see in the rising glories of the French Republic the effulgence of a brighter and purer planet.

The ambition of the meanest individuals was awakened. Not only was there an universal right, but an universal capacity, to govern. Advantages of education and of morals were denied; and to fill an inferior place in society was the result not of inferior ability, but of less courage and weaker purpose.

The instance of Thomas Paine, whose pen was subsequently employed to vilify Washington, was adduced to show the superior justice of France, and to indicate Atheism and insubordination as the short roads to distinction.

A contrast was drawn between the coldness towards him of the American Government and the ardor of the French people; and the pomp and distinction of his reception as a delegate from an Insurrectionary society of England to the National Convention were fully detailed.

"On the name of Paine being announced," it was stated, "that the soldiery at the gates of Calais were drawn up, and the officer on guard having embraced him, he was presented with the National cockade. Beauty contended for the privilege of placing it on his hat—expressing the hope, that he would continue his exertions in favor of liberty, equality, and France."

At the close of this ceremony, this personification of Atheism passed through the "Rue de l'Egalitè," lately the "Rue de Roi," attended by men, women and children crying, "vive Thomas Paine," to the Town Hall, where he was *embraced* with the greatest affection as the new Representative of their Municipality.

He was waited upon at his lodgings by the President of the Constitutional Society, to whose meeting he was followed by a vast concourse of people. Over the chair in which he sat, were placed the bust of Mirabeau and the colors of France, England and America united. His election as a Deputy of Calais—of Abbeville,—and of Beauvais was announced amid the plaudits of the populace, contending for the honor of approaching the person, and paying deference to the author of "the Rights of Man."

A Society was soon after formed in Philadelphia of "the Friends of Equality" to celebrate the Revolution of France; and a civic festival of the Militia was held to commemorate the alliance of the two Republics. A similar display took place at Boston, over which Samuel Adams presided. The epidemic enthusiasm spread. For the simplicity of American manners was substituted a servile imitation of the new affectations. It was declared, that every name should be preceded by the appellation of "Citizen;" and for the usual mode of salutation, *men* of education and respectability were seen to exchange

with each other, in the public walks, the *kiss* of *fraternity.*

Meanwhile, as the excitement increased, the violence of the attacks upon the Federal Administration increased with it.

Rumors were circulated of an intention to cede the Country west of the Ohio to the Indians, in order, that the British might purchase it, establish a British province, and lower over the west.

The application by Hamilton of a part of the Dutch loan to purchase the Domestic Debt, was charged to be an act of hostility to an ally, thus misapplying money lent by them in the day of our trial, and which should have been paid to them at the crisis when the fate of their liberty was depending.

Foreign loans were deprecated as means of jeoparding the independence of the United States, "exposing them to become the sport of ambitious monarchs, enterprising ministers, and venal parliaments." *

A clamor was also raised against the delay in paying the debts to the French officers, a delay solely attributable to the opposition.

On the one hand, a narrative was announced, to prove efforts to establish a monarchy in the United States, which was never published; and on the other, a general celebration of the new Republic of France was urged, as the proper office of the whole people.

The compliments on the birthday of the President were stigmatized as the commencement of courtly ceremonies; and with them were contrasted, "the Unity of Jefferson's conduct, his dignified and republican simplicity, his enmity to fastidious distance and reserve, and his re-

* Jefferson's National Gazette.

spect for the people, subjects of affection and commendation, and of imitation to every man who is the friend of equality."* He was appealed to, as "the Colossus of opposition to monarchical deportment, monarchical arrogance, and monarchical splendor." Washington was denounced, as having abandoned the soldier's rights, and he was told, that "the tide of popular opinion would soon begin to ebb from that channel where it flowed like a torrent, unless elementary principles and *first* declarations were resorted to as the standard of his conduct." †

The trial of the King of France was represented as a great national process between the people and a despot. His murder was defended as an oblation to Liberty, "a great act of Justice." Sympathy for his sufferings and his fate were charged "as convincing proofs of a strong remaining attachment to royalty," ‡ and derided as "the shrieks of a Monarchical Junto." ‖ §

To inflame the popular mind was not all that was to be effected. Washington's impression as to England and his honorable prepossessions to France, in common with those of the nation at large, were to be played upon, and brought into co-operation. Hamilton's avowed, fixed purpose to maintain an impartial neutrality, was to be thwarted. Nor could this be accomplished while he retained the confidence of the President.

* Jefferson's National Gazette. † Ibid. ‡ Ibid. ‖ Ibid.

§ Madison to Jefferson, April 12, 1793. "The sympathy with the fate of Louis has found its way pretty generally with the mass of our citizens, but relating merely to the man, and not to the monarch, and being derived from the spurious accounts in the papers of his innocence, and the blood-thirstiness of his enemies. I have not found a single instance in which a fair statement of the case, has not new-modelled the sentiment. . . . 'If he was a Traitor he ought to be punished as well as another man.' This has been the language of so many plain men to me, that I am persuaded it will be found to express the universal sentiment wherever the truth shall be made known."

Contradicted as he is by abundant, numerous, cotemporary, official and personal evidences, Jefferson is seen recording the Secretary of the Treasury as declaring himself in favor of "a defensive treaty of alliance" with England,*—imputing to him the expression of a doubt, whether any new government of France could with safety be recognized or *money paid to its order*, "if they should omit the King;"† charging him with an avowal, "that there was no stability, no security in any kind of government, but a monarchy;"‡ and representing himself, day after day, seeking to infuse suspicions of his colleague in the Cabinet into the breast of the President, and communing with his private Secretary, § to quicken and confirm these suspicions.—What a picture was he drawing of himself!

All these complots and devices were in view of the recent convulsions in France, which Jefferson was about to use as a powerful mean of exciting turmoil within the United States. Looking to the arrival of Genet, he now recalls his intimation of an intention to resign, and announces to the President his willingness "to continue somewhat longer in office;" and as the moment approaches of a direct and powerful stimulus being given to the passions of the Nation, writes to Madison—"We expect Mr. Genet here within a few days. It seems, as if his arrival would furnish occasion for the *people* to testify *their*

* Jefferson's Works, iv. 472. Oct. 31, 1792.

† Ibid. 474.—Nov. 1792; Stating at a moment of such open hostility, "*Hamilton called upon me* to speak about our furnishing supplies to St. Domingo."

‡ On the authority of Butler, represented as retailing a dinner-table conversation—with whom a personal difference with Hamilton had recently been arranged.—Ibid. 474. Nov. 21, 1792.

§ Ibid. 481. Feb. 28, 1793.

affections, without regard to the *cold caution* of their government." *

Soon after, the intended mission of Genet as Minister of the French Republic was publicly announced.

A warm appeal was then made to the gratitude of the American people. They were invited "in their individual and private capacities to endeavor to put an end to the unequal and iniquitous conduct of Europe towards the author of their own freedom, and the protectress of Liberty."

"Now, is the time for America to show her gratitude to her friendly ally, France—now, is the time to assist in the struggles of Liberty," * were the watchwords of the opposition; and while preparations were made to receive Genet with distinguished éclat, a political society was established at Philadelphia, in imitation of the Jacobin Club of Paris; and similar associations were proposed to pervade the Union.

The menacing language of Brissot, that "the great family of Frenchmen must compose only one army, and all France must form only one camp, where nothing but War is talked of, where nothing is pursued, but War," was re-echoed throughout this Country.

Amid all this preparatory excitement her Declaration of War against England was published.

The communication of the French Minister, Le Brun, marked the policy of his nation. He stated, as the motive of the continuance of the French Envoy in England, after the recall of Lord Stower, "that he was charged to seize every occasion to assure the *English nation*, notwithstanding the ill humor of their *Government*, that the French people desired most ardently to merit their esteem,

* Jefferson to Madison. April 28, 1793. † National Gazette, 199.

and to preserve the friendship which ought ever to unite two free and generous nations."

There was too much method in the course of the opposition—too much mingling of abuse of the administration with the favorite topics of the day, too earnest and frequent distinctions were drawn between the Government and the People, to escape the eye of Hamilton, who stood watching the approaching storm, already felt the pressure on the helm, and resolved to moor his Country in safety at the first appearance of danger.* Upon him the eyes of the nation were now fixed. The Merchants of New England anxiously inquired of him, How peace could be preserved! "Our old privateers-men," they wrote, "will require a tight rein to prevent their taking a part."

"The best men of the Country," writes a leading friend in the South, "rely chiefly upon your talents and disposition to avoid the rocks which lie upon the right hand, and the left, ready to dash our young government to pieces upon the least unskilful pilotage."

The intelligence of the "declaration of War" reached Philadelphia on the fifth of April. It was immediately communicated to the President, then at Mount Vernon, by the Secretary of the Treasury; and its confirmation was announced to him on the eighth, with information that the conduct of England towards American Vessels had been "unexceptionable," which he observed, "gave very great satisfaction, as favorable to a continuance of peace, the desire of which may be said to be both universal and ardent."

The probability of hostilities in Europe had some time

* Jefferson states, in relation to an apprehended rupture with Spain, "Hamilton declared himself *the advocate* for peace—War would derange our affairs greatly, throw us back many years in the march towards prosperity," &c. "He was for every thing which would procrastinate the event."

past called Hamilton's attention to the Treaty of the United States with France. He had reflected much and consulted much with others as to the obligations it imposed on this Country. Though his opinions had been formed, yet the momentous interests involved, indicated the necessity of the utmost caution.

On the ninth of April, the day after the recent information was received, he wrote to the Chief Justice, "When we last conversed together on the subject, we were both of opinion, that the Minister expected from France should be received.

"Subsequent circumstances have perhaps induced an additional embarrassment on this point, and render it advisable to reconsider the opinion, generally, and to raise this further question, 'whether he ought to be received *absolutely*, or with qualifications?'

"The King has been decapitated. Out of this will arise a Regent, acknowledged and supported by the powers of Europe almost universally,—in capacity to act; and who may himself send an Ambassador to the United States. Should we in such case receive both? If we receive one from the Republic and refuse the other, shall we stand on ground, perfectly neutral?

"If we receive a minister from the Republic shall we be afterwards at liberty to say, 'we will not decide whether there is a government in France competent to demand from us the performance of the existing treaties? What the government of France shall be is the very point in *dispute*. Till that is decided, the *applicability* of the Treaties is suspended. When that Government is established, we shall consider whether such changes have been made as to render their continuance incompatible with the interests of the United States.' If we shall not have concluded ourselves by any act, I am of opinion, that we

have at least a right to hold the thing suspended till the point in dispute is decided. I doubt, whether we could *bona fide* dispute the ultimate obligation of the Treaties. Will the unqualified reception of a Minister conclude us? If it will, ought we so to conclude ourselves? Ought we not rather to refuse receiving, or to receive with qualifications, declaring that we receive the person as the representative of the Government *in fact* of the French Nation, reserving to ourselves a right to consider the applicability of the Treaties to the *actual situation* of the parties?

"These are questions which require our utmost wisdom. I would give a great deal for a personal discussion with you. *Imprudent things* have been already done, which render it proportionally important, that every succeeding step should be well considered."

On the same day, he again wrote him, "A further question occurs;—would not a *Proclamation* prohibiting our citizens from taking Commissions on either side be proper? Would it be well that it should include a *declaration of neutrality*.—If you think the measure prudent, could you draught such a thing as you would deem proper? I wish much you could."

With a view to a full knowledge of the state of public opinion, Hamilton, the *following* day, addressed a letter * to another of his correspondents, a resident of Virginia.

On receiving Hamilton's letter, announcing the declaration of war, Washington immediately replied,† "Your letter of the seventh was brought to me by the last post. War having actually commenced between France and Great Britain, it behooves the government of

* Hamilton's Works, v. 555, April 10, 1793.

† April 12, 1793. Washington to Hamilton.

this Country to use every means in its power to prevent the citizens thereof from embroiling us with either of those powers, by endeavoring to maintain a *strict neutrality.** I therefore require that you will give the subject mature consideration, that such measures as shall be deemed most likely to effect this desirable purpose may be adopted without delay; for I have understood that vessels are already designated as privateers, and are preparing accordingly. Such other measures as may be necessary for us to pursue against events which it may not be in our power to avoid or control, you will also think of, and lay them before me on my arrival in Philadelphia, for which place I shall set out to-morrow."

A letter of the same date was addressed by him to the Secretary of State in the same words. There is nothing to show that by the latter, whose province it was, any line of conduct was indicated. Hamilton forthwith framed with great care a series of questions for the consideration of the Cabinet, embracing the points stated in his letter to Jay. On the seventeenth of April, the President arrived at Philadelphia. Hamilton placed before him, an outline of the measures his letter had required. Jeffer-

* Yet Jefferson represents that on the 27th Dec. 1792, *after* France had declared War against Austria and *after* the suspension of the King, and *when* the suspension of the payments of the debt was deemed necessary for want of an established government to pay to—that Washington observed to him, "that he thought it was time to endeavor to effect a *stricter connection with France.*" Jefferson's Works, iv. 474. The President's sense of the importance of a strict neutrality is also seen in a letter of the 28th July, 1794, to G. Morris: "I trust we shall never so far lose sight of our own interest and happiness, as to become, unnecessarily, a *party in their political* disputes." X. Wash. 174. As evidence of Washington's opinions, Randall quotes a private letter written for him by Jefferson to Ternant—speaking of "fraternity." Washington doubted the policy of the letter, and it was *not* sent. See X. Wash. 347.

son, though he had, in a Cabinet opinion, declared "the transaction of business with foreign nations is Executive altogether," advised him to convene Congress!! On the following day, the President submitted Hamilton's paper*

* The posture of affairs in Europe, particularly between France and Great Britain, places the United States in a delicate situation, and requires much consideration as to the measures which it will be proper for them to observe in the war between those powers. With a view to forming a general plan of conduct for the Executive, I have stated and enclosed sundry questions, to be considered preparatory to a meeting at my house to-morrow, where I shall expect to see you at nine o'clock, and to receive the result of your reflections thereon.

Question 1. Shall a proclamation issue for the purpose of preventing interferences of the Citizens of the United States in the war between France and Great Britain, &c.? Shall it contain a declaration of neutrality or not? What shall it contain?

Question 2. Shall a minister from the Republic of France be received?

Question 3. If received, shall it be absolutely, or with qualifications; and if with qualifications, of what kind?

Question 4. Are the United States obliged, by good faith, to consider the treaties heretofore made with France, as applying to the present situation of the parties? May they either renounce them, or hold them suspended, till the government of France shall be *established*?

Question 5. If they have the right, is it expedient to do either, and which?

Question 6. If they have an option, would it be a breach of neutrality to consider the treaties still in operation?

Question 7. If the treaties are to be considered as now in operation, is the guarantee in the treaty of alliance applicable to a defensive war only, or to war either offensive or defensive?

Question 8. Does the war in which France is engaged, appear to be offensive or defensive on her part, or of a mixed and equivocal character?

Question 9. If of a mixed and equivocal character, does the guarantee in any event, apply to such a war?

Question 10. What is the effect of a guarantee, such as that to be found in the treaty of alliance between the United States and France?

Question 11. Does any article in either of the treaties prevent ships of war, other than privateers, of the powers opposed to France, from coming into the ports of the United States, to act as convoys to their own merchantmen? or does it lay other restraints upon them, more than would apply to the ships of war of France?

to his Cabinet—the proposal to convene Congress being added.

Question 12. Should the future Regent of France send a minister to the United States, ought he to be received?

Question 13. Is it necessary or advisable to call together the two Houses of Congress, with a view to the present posture of European affairs? If it is, what should be the particular objects of such a call?

GEO. WASHINGTON.*

* Hamilton's Works, iv. 359.

CHAPTER LXXXVIII.

On the nineteenth of April, this most important Cabinet Council was held. Its interior history has not yet been given to the world.

In answer to the first of the questions propounded by the President, Jefferson *objected* to the issuing of a Proclamation of Neutrality. He stated "that a declaration of neutrality was a declaration, that there should be no war, to which the Executive was not competent."

"The first objection," he observed, "was so far respected as to avoid inserting the term neutrality, and the drawing of the instrument was left to Edmund Randolph—that there should be a proclamation was passed unanimously with the approbation or acquiescence of all parties. Indeed it was *not expedient* to oppose it altogether, lest it should prejudice what was the next question, the boldest and greatest that ever was hazarded, and which would have called for extremities, had it prevailed." *

As to the other questions he made this reply—"First principle—The people the source of all authority, the constituent in all treaties. This answers questions ii. iii. iv. v. vi. xii. Second principle—The legislature alone

* Jefferson to Madison. June 23, 1793.

can declare war. The question of guarantee is a question of war. This answers questions vii. viii. ix. x. As to question xi., French ships of war and privateers with prizes may come and go freely. English may not. If they put in in distress, must go as soon as possible."

"Jefferson," Hamilton states, "objected to the declaration of Neutrality, and advised the call of Congress, alleging that the Proclamation was a step too important to rest on the President's bare authority.—Whether this advice proceeded from a secret wish to involve us in a war, or from a constitutional timidity, certain it is, such a step would have been fatal to the peace and tranquillity of America." *

A Congress assembled at this moment when the passions of the people had been artfully kindled in every quarter of the Union; and when, at the seat of government, an association had been formed to overawe its deliberations, would have inevitably been led to some rash act, that must have terminated in war. To have convened it would have been to have adopted the very measure which Genet, when he failed in his attempt to control the decisions of the Executive department, strenuously sought to accomplish, and which the presses favoring Jefferson urged with persevering clamor.

That at such a time the Secretary of State should have objected to this peace preserving policy must excite the greater surprise, when it is remembered, that in seventeen hundred and eighty-seven, prior to the convulsions in France, he stated "our dispositions would be to be *neutral;* and I thought it the interest of both these powers" (England and France) "that we should be so." †

Only a month before this meeting of the Cabinet, he

* Hamilton's Works, vii. 832. † Jefferson's Works, ii. 69.

wrote to the American Minister at Lisbon, "As there appears to be at present a probability of a very general war in Europe, you will be pleased to be particularly attentive to preserve for our vessels *all the rights* of *neutrality*, and to endeavor, that our flag be not usurped by others to procure to themselves the benefits of our neutrality."

Hamilton earnestly combatted Jefferson's covert policy, and, after much discussion, it was determined by the votes of all of the members of the Cabinet, "that a proclamation shall issue forbidding American citizens taking part in any hostilities on the seas with, or against any of the belligerent powers; warning them against carrying to any of such powers any of those articles deemed contraband, according to the *modern* usage of nations; and enjoining them from all acts and proceedings inconsistent with the duties of a friendly nation with those at war." * Although the word "neutrality" was omitted from a concession to Jefferson, yet it will be seen, that by the terms of this opinion, the Secretary of the Treasury secured every point for which he contended, and which was essential to the preservation of a neutral position.

"On the second question, Shall a Minister from the Republic of France be received? it was unanimously agreed, that he shall be received." The remaining questions were postponed for further consideration.

Jefferson was directed immediately to announce to Great Britain and France this decision of the Government, which he did, according to the spirit of the Cabinet decision.

To Pinckney, he stated, "You may, on every occasion, give *assurances*, which cannot go beyond the real desires of this Country, to preserve a *fair neutrality*, in the pres-

* Hamilton's Works, iv., 360.

ent war, on condition that the rights of neutral nations are respected in us, as they have been settled in *modern* times, either by the express declarations of the powers of Europe, or in their adoption of them on particular occasions. From our treaties with France and Holland, and that of England and France, a very clear and simple line of conduct can be marked out for us; and I think we are not unreasonable in expecting that England shall recognize towards us the same principles which she has stipulated to recognize towards France, in a state of neutrality."

On the same day he wrote to Gouverneur Morris, at Paris, "No country was ever so thoroughly disposed against war as ours. These dispositions pervade every description of its citizens, whether in or out of office. They cannot perhaps suppress their affections nor their wishes, but they will suppress the effects of them so as to preserve a *fair neutrality*. Indeed, we shall be more useful as neutrals, than as parties, by the protection which our flag will give to supplies of provisions. In this spirit, let all your assurances be given to the government with which you reside."

Thus it is seen, that Jefferson was again "forced" * to adopt the policy which "prevailed;" and as to the line of conduct indicated in the letter to Pinckney, it will be seen, that this also was marked out by Hamilton, sought to be defeated by Jefferson, and likewise "forced" upon him.

A few days after, when the execution of this policy was demanded, he wrote to Madison, stating the fact, and adding, "I fear that a *fair neutrality* will prove a disagreeable pill to *our friends*, though necessary to keep us out of the calamities of war." †

* Jefferson to Washington. Sept. 9, 1792. Infra, p. 67.

† Jefferson to Madison. April 28, 1793.

On the twenty-second of April, the Proclamation was promulgated.—A draft of an instrument had been framed by Jay, who "avoided the expression Neutrality, because this country often associated it with others."* The former State paper was succinct and authoritative. It stated, that "the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward belligerent powers; and declaring the disposition to observe such conduct, warned the citizens to avoid all acts contravening such disposition; announcing that protection would not be given to any of its citizens incurring punishment or forfeiture by committing, aiding or abetting hostilities against any of those powers, or by carrying to them those articles deemed contraband by the *modern* usage of nations"—and that prosecutions would be instituted for such violations.

The draft of Jay precommitted the administration upon the question of the Government of France—adverted to the death of her king—recommended avoiding the discussion of questions foreign to this Country, as tending to cause divisions and parties; and expressed a wish that the printers might study to be impartial and prudent. It required the citizens to abstain from acts of hostility and enjoined the magistrates to prevent aggressions.

As being within the province of the Attorney General, the proclamation, as has been stated, was drawn by him, but the fact that the language of this document was made the subject of an attack upon Hamilton, by Jefferson's immediate partisans, shows his agency in the final shape it received.

* Jay to Hamilton, April 11, 1793.

In the gazette of Jefferson, he is denounced in reference to this State paper as "THE LEGISLATIVE DICTATOR OF THE UNION."

There was a difference of views, whether the reception of the minister should be "absolute or qualified." From his correspondence Hamilton had discovered, that a diversity of opinion existed on this question among the warmest friends of the Administration.

To avoid committing this Country at a time when such clouds were hanging over the destinies of France, he advised a qualified reception. His reasons for this course are given at much length in a REPORT to the President of the second of May.*

He proposed, that a previous declaration to the reception of a minister should be made, "that the Government of the United States uniformly entertaining cordial wishes for the happiness of the French Nation, and disposed to maintain with it an amicable communication and intercourse, uninterrupted by political vicissitudes, does not hesitate to receive him in the character which his credentials import; yet considering the origin, course and circumstances of the relations contracted between the two countries, and the existing position of the affairs of France, it is deemed advisable and proper, on the part of the United States, to reserve to future consideration and discussion, the question whether the operation of the Treaties, by which those relations were formed, ought not to be deemed temporarily and provisionally suspended; and under this impression it is thought due to a spirit of candor and friendly procedure to apprise him beforehand of the intention to reserve that question, lest silence on the point should occasion misconstruction."

* Hamilton's Works, iv. 362.

The reasons of this opinion were—that the treaties of seventeen hundred and seventy-eight were made with the King of France and his successors—that the Government had given way first to a constitution accepted by the King, and then to a tumultuous rising—during which the king was seized, imprisoned, and suspended by a body only delegated to exercise the legislative functions of the established government—not authorized to divest any other of the constituted authorities of its legal capacities or powers.

The grounds of this procedure are then examined, and from the declarations of the Revolutionary Leaders, it is shown, that this was not a measure of counteraction to a meditated Revolution by the King, but the issue of a premeditated plan to subvert the monarchical power. Hamilton next adverts to the massacres of September, the organization of a temporary *provisional* government until a Constitution shall *be established*—the trial and decapitation of the King—an event produced by the controlling influence of the Jacobin Club, an event regarded by Europe and the most respectable part of America —not as an act of National justice; and also to the war commenced with the declared or implied intention of restoring royalty in the person of the successor of Louis.

These facts are stated, not to indicate a definitive opinion as to the conduct of the present rulers of France, but to show, that the course of the Revolution, had been such as to militate against the full conviction of its having been "the free, regular and deliberate act of the nation, conducted in such a spirit of justice and humanity as ought to silence all scruples about the validity of what had been done, and the morality of aiding it, even if consistent with policy."

The next inquiry was;—Had the United States the

option to consider the treaties with France as in present force, or might they elect to consider their operation as suspended—reserving the right to judge finally, whether any such changes have happened in the political affairs of France as may justify a renunciation of them.

Hamilton contended, that the United States had such option, and also the right to renounce these treaties, if such change shall take place as can bona fide be pronounced to render a continuance of the connection resulting from them "disadvantageous or dangerous."

"There are two propositions," he remarked, "which may be opposed to this opinion."

1. That a Nation has a right, in its own discretion, to change its form of Government, to abolish one and substitute another.

2. That real treaties, of which description those in question are, bind the NATIONS whose governments contract and continue in force, notwithstanding any changes which happen in the forms of their Government.

Hamilton admitted in its fullest latitude the truth, "that a nation has a right in its own discretion to change its form of government," but denied its right, "to involve other nations, with whom it may have had connections, absolutely and unconditionally, in the consequences of the changes which it may think proper to make." "This," he said, "would be to give to a nation, not only a power over its own happiness, but over the happiness of others." As a consequence of this, though the obligation of *real* treaties continues upon the nation making the change, the other party may renounce them, in case the change renders them really useless, or less advantageous, or more dangerous. This deduction is fully argued, the opinions of Jurists adduced, and the practice of governments shown to have been conformable to this, in theory.

As the present government was merely provisional, this undetermined state of things, he thought, implied a right to suspend those treaties during the pendency of the Revolution. An express admission that the Treaty subsisted would assume all the chances of future changes in her institutions, however detrimental they might be.

As the succors to the United States were derived from the dethroned Prince, it was the part of delicacy and decorum, not to side with his successors. Nor was this the only reason. "A struggle for Liberty," he observed, "is in itself respectable and glorious. When conducted with magnanimity, justice and humanity, it ought to command the admiration of every friend to human nature. But if sullied by crimes and extravagancies, it loses its respectability." "As the Revolution of France had sustained serious blemishes, he felt that to implicate this Country as its associate ought to suggest very serious considerations to a mind anxious for its reputation; anxious that it may emulate a character of sobriety, moderation, justice and a love of order." These and other enlarged views—sustained by the fact that France had declared null all the various stipulations of the ancient government with foreign powers, thereby leaving to such powers the right of adopting the same principle towards her, led him to the conclusion, that it was prudent to reserve the question as to the temporary suspension of the treaties, "for further reflection, and a more complete development of circumstances."

But, while "the *interest* of the United States seems to dictate the course recommended in many ways—in reference to their character, from the considerations stated; and in reference to their peace—and while the interest of France might suggest such a course, this ought not to retard the payment of the debt. "The payment of a debt

is a matter of perfect and strict obligation. It must be done at all events. It is to be regulated by circumstances of time and place, and ought to be done with strict punctuality. Nobody can doubt that the debt due to France is at all events to be paid, whatever *form* of government may take place in that Country."

Jefferson, in an opinion, discussed partly in a tone little consistent with the dignity of his station, or with the magnitude of the question, contended that changes in the forms of Government did not annul the treaties between the Nations; and that the dangers to be apprehended from considering them in force were not of such a nature or so probable, as to justify "self-liberation" from the contract. He denied the propriety or the utility of the proposed declaration; and declared, that the not renouncing the treaties "forthwith, was so far from a breach of neutrality, that the doing it would be the breach, by giving just cause of war to France." *

The Secretary at War concurred in Hamilton's opinion, but it was decided, that the reception of the French Minister, should be absolute.

The question as to the guarantee in the Treaty of alliance was one attended with less difficulty.

It is important to remark as one of the indications of the masked policy adopted by Jefferson and Randolph, that they avoided all commitment upon this question, while Hamilton met it unhesitatingly by a full examination of all the facts necessary to determine the obligations of the United States.

The interest of the topics it touches and the opportunity of presenting the views of a statesman wholly removed from the causes which influenced the European

* Life of Jefferson, i. 421, by Tucker.

mind, would prompt its full insertion, were it not of too great length.

"The War," he said, "is plainly an OFFENSIVE war on the part of France," and his opinion* opened with a quotation from *Burlemaqui* to prove—that it is not the first *injury* which constitutes the act of offence. "If," he says, "we take up arms to avenge an unjust act, we commence an offensive, but a just war, and the prince who has done the injury, and will not give satisfaction, makes a defensive, but an *unjust* war."

"We must therefore affirm in general, *that the first who takes up arms, whether justly or unjustly, commences an offensive war, and he who opposes him, either with or without reason, begins a defensive war.*" This principle is confirmed by a quotation from Barbeyrac.

Hamilton proceeded to review the leading events which had passed on the stage of Europe, establishing the fact, that France had been the first to declare war against every one of the powers with whom she was at war—that she commenced hostilities—and that in every instance, except one,† the war was *in fact offensive* on her part; and therefore that "the casus fœderis of the guarantee in the treaty of alliance between the United States and France cannot take place, though her West Indian Islands should be attacked. The express denomination of this Treaty, is a "Treaty of alliance EVENTUAL and *defensive.*"

The second article of the Treaty also calls it a *defensive* alliance. "This constitutes the leading feature, the characteristic *quality* of the treaty. By this principle every stipulation in it is to be judged."

That an early and fixed line of conduct should be

* Hamilton's Works, iv. 382, May 2, 1793. † That of Portugal.

marked out, and promulgated both for the government of the officers of the customs, as well as of the citizens at large, was urgent. Neutrality had been, in fact, proclaimed. What were its precise duties ought also to be proclaimed. With this view, Hamilton prepared a Circular to the Collectors, which he submitted to the President on the fourth of May, saying, "It has appeared to him that a circular letter of the inclosed form to the several Collectors would be a measure of utility. If not disapproved by the President, it will be forwarded. The inclosed paper is sent, lest the President should not have received it otherwise. It contains intelligence critically important, though requiring confirmation." This Circular was submitted by Washington to the other Heads of Departments, and the objection was to its effect in checking ship-building. The next day, the President replied to Hamilton, "Before you dispatch your circular letter, of which you inclosed me a copy, to the several collectors, I would speak to you respecting a particular clause of it." The strict compliance with Treaties and the effectual fulfilment of the purposes of the Proclamation of Neutrality, which this Circular would have produced, little accorded with Jefferson's views. He objected to the order to the Collectors, which Randolph vindicated.* His discontent with the Attorney-General for not lending himself to his views is very marked.†

A letter from Jefferson to Monroe, shows his state of feeling:—"In the mean time, Hamilton is panic-struck if we refuse our breech to every kick which Great Britain may choose to give it. He is for proclaiming at once the most abject principles, such as would invite and merit habitual insults; and indeed, every inch of ground must be fought in our councils to desperation, in order to hold

* May 9, 1793. † Jefferson to Madison, May 13, 1793.

up the face of even a sneaking neutrality, for our votes are generally two and a half against one and a half. Some propositions have come from him which would astonish even PITT himself with their boldness. If we preserve even a sneaking neutrality, we shall be indebted for it to the President, and not to his Counsellors." Three days after, Madison wrote to Jefferson in language more temperate, though sufficiently explicit. He did not approve an "*impartial*" neutrality. "I should still doubt whether the term '*impartial*' in the Proclamation is not stronger than was necessary, if not, than was proper."

The President, by the suggestion as to the effect on ship-building, had been induced to pause as to this Circular, and he called a Cabinet Council. An unanimous opinion was given, that "the treaty with France left the United States free to prohibit her from arming vessels in their ports; and as the treaty obliged them to prohibit the enemies of France from arming in their ports, and left them free to prohibit France, that the laws of neutrality obliged them to prohibit her." The question was then raised, "How far may a prohibition now declared be retrospective to the vessels 'recently' armed in Charleston, by the French consul, and what was to be done with their prizes?" Jefferson said, "It cannot be retrospective at all. They may sell their prizes and continue to act freely as the armed vessels of France." Hamilton and Knox were of the opinion, that the prizes ought to be given up to the English, and the privateers suppressed. Randolph pronounced them free to sell their prizes, but that the privateers should be ordered away, not to return until they had been to the dominions of their own sovereign, and thereby purged of the illegality of their origin.

Jefferson states, that this last opinion was adopted by the President.

Another Question was propounded. "May the prohibition extend to the means of the party arming, or are they only prohibited from using our means for the annoyance of the enemy?" Jefferson was of the opinion, "they were free to use their own means, i. e.—mount their own guns, &c. Hamilton and Knox were of the opinion, they are not to put even their own implements or means into a position of annoyance. The President," Jefferson states, "has not yet decided this. 'May an armed vessel arriving here be prohibited to employ their own citizens found here as seamen or marines?'" Jefferson stated, "they cannot be prohibited to recruit their own citizens. Hamilton and Knox that they may, and ought to be prohibited. No decision yet by the President."

"The United States being a ship-building nation may they sell ships prepared for war to either party." Jefferson said, "They may sell such shipping in their ports to both parties, or carry them for sale to the dominions of both parties. Randolph, was of the opinion, they could not sell them here, and that, if they attempted to carry them to the dominions of the parties for sale, they might be seized, by the way, as contraband. Hamilton was of the same opinion, except that he did not consider them as seizable for contraband, but as the property of a power making itself a party in the *war* by an aid of such a nature; and consequently, that it would be a breach of neutrality." *

The next day Washington wrote to Hamilton, "As I perceive there has been some misconception respecting the building of vessels in our ports which may be converted into armed ones; and as I understand from the

* "Recapitulation of Questions wherein we have given opinions"—in the autograph of Jefferson. Department of State.

Attorney-General there is a meeting to-day or to-morrow of the gentlemen on another occasion, I wish to have that part of your circular letter which respects this matter reconsidered by them before it goes out. I am not disposed to adopt any measures which may check *ship-building* in this country; nor am I satisfied that we should too promptly adopt measures, in the first instance, that are not indispensably necessary. To take *fair* and *supportable* ground, I conceive to be our best policy, and is all that can be required of us by the powers at war; leaving the rest to be managed according to circumstances and the advantages which may be derived from them. I am always," &c.

The Question also was propounded—"Is it not expedient, that the District Attorneys should be written to, requiring their attention to the observance of the injunctions of the proclamation."

In this instance, Jefferson succeeded for a time. The issuing of the Circular was postponed. No definite ground was publicly taken by the government, and the consequent embarrassments, deeply involving the character and peace of the Country, ensued.

CHAPTER LXXXIX.

On the day the Proclamation of Neutrality was issued, information was received, that Edmund Genet, the Minister of France, who had been expected at Philadelphia, had arrived in a National Vessel at Charleston, on the eighth of April.

This person, whose diplomatic career in the United States, of less than nine months, forms one of the most conspicuous epochs in their early history, was a brother of Madame Campan, the devoted attendant of Marie Antoinette. Various members of his family had been the objects of royal patronage; and he had himself filled numerous subordinate situations, from a very youthful age. After holding a commission in a Corps of dragoons, he was, through the patronage of Vergennes, attached to the Embassy at Berlin;—acted a short time as Secretary of Legation to De Moustier at the Court of St. James;—was thence transferred to Vienna where he held the same station; and, after some years' service, received a pension until he was connected with the mission of Count de Segur at St. Petersburg.—Here he rose to the place of Chargé d'affaires, which he held until expelled from the Russian Court, in consequence of the dethronement of the King of France.

His deportment in Russia, recommended him to the Revolutionary Councils, and he was appointed, immediately after his return to Paris, Minister to Holland, and an Adjutant-General. His service in this capacity was of short duration. He was soon after selected, as an agent for the designs of France on the peace of the United States.*

Various motives might have been assigned for his destination to Charleston—the avoidance of a more boisterous navigation to a Northern harbor—the greater risk of falling in with enemy's vessels, and the desire to transmit instructions for ulterior objects, in the shortest time, to the French West Indies. But his conduct soon discovered that it was prompted by widely different considerations.

By bold and decisive measures—at a point remote from the seat of Government, where it appeared, that there were persons too well disposed to enter into his plots, and where no serious obstacles were to be apprehended from the interposition of the National authority—to implicate the United States, without its volition, in a general war, was proved by his instructions to have been the deliberate purpose of France.

From the date of these instructions, and his early departure from Paris; it would seem to have been her design to effect this object before time could elapse for the administration to take the requisite precautions.

War was declared by her against Great Britain and Holland on the first of February.—Genet sailed from Rochefort on the twenty-second of that month.

He was warmly greeted by the Governor of South

* Steele wrote to Hamilton, "He has a good person, fine ruddy complexion, quite active, and seems always in a bustle, more like a busy man than a man of business. His system is to laugh us into the war, if he can."

Carolina, and by a part of the population of Charleston. Availing himself of the excitement, he took measures, the day after his arrival, to arm American vessels under French commissions, to war upon the British Commerce within the Tropics.* The French Consul at Charleston was instructed by him to establish a Court of Admiralty to adjudicate upon the captures. A rendezvous was opened for enlisting American seamen into the French service; and, within five days after he entered Charleston, Dutch and British prizes to French privateers arrived in that port, were condemned by this Consul, and ordered to be sold!!

The zeal manifested on this and a subsequent occasion in behalf of Genet by the Government of that State excited much speculation; and the fact that a brother of Freneau, a clerk in the office of Jefferson, and Editor of his Gazette, was the private Secretary of Governor Moultrie, could not escape remark.

Genet proceeded from Charleston by way of Camden and Salisbury, where he received public testimonials of the attachment to France. He closed his triumphant procession at the seat of Government on the sixteenth of May. During his progress, every disposition was made to quicken the public feeling at the North. In Philadelphia, New York and Boston the Democratic papers teemed with animadversions on the Proclamation of Neutrality. To defeat its influence, parts of the Treaty with France were published. An address was then made to the citizens of Philadelphia, asserting that this measure was only one among the other combinations of Government against the

* "Monsieur Genet took out with him 300 blank commissions, which he is to distribute to such as will fit out cruisers in our ports to prey on the British commerce." G. Morris to Secretary of State. March 7, 1793.

French people. They were implored to welcome the Embassador with the warmth due to their Ally. The impartiality enjoined by the President was denounced as a breach of faith; its advocates as the friends of monarchy—Aristocrats and Tories; and menaces were uttered against such as should dare to express opinions unfavorable to the cause of France.

In the mean time, French prizes arrived at Philadelphia, followed by the frigate that transported Genet, which were received with enthusiastic greetings.

The fact, that one of these prizes had been made within the waters of the United States, and that War had been levied within their territory, in direct violation of the Sovereignty of this Nation, was disregarded.

While such efforts were made to increase the French party, Hamilton addressed the community anonymously. He urged the high interest to the country of remaining at peace; and, as a mean to this great end, of observing a strict neutrality; the danger of public manifestations in favor of any of the contending parties as tending to induce a belief that they might finally take sides; and adverting to the recent fate of the King of France, "upon whose pleasure the succor afforded to the United States depended;" he reminded them, that "any extraordinary honors to the Representative of those who had consigned him to so afflicting a doom would be as little consonant with decorum and humanity, as with true policy."

This address and his personal influence had great effect. Notwithstanding a formal annunciation of the anticipated arrival of the Minister, the discharge of signals from the French frigate, and all the preparatory measures of his partisans, the number of citizens who went out to receive him was small.

On the evening of the same day, in pursuance of a

notice in a Democratic paper, which was issued earlier than usual, a meeting was convened in the State House yard. A few persons assembled, and a Committee was then appointed to address Genet. They met the ensuing evening, proceeded to his house, and the ceremony of gratulation was completed. The principals in this scene were the same men "who had been uniformly the enemies and disturbers of this government." * From the complexion of this meeting, Hamilton predicted: "It will not be surprising, if we see ere long a curious combination growing up to control the measures of the Government with regard to foreign politics at the expense of the peace of the Country; perhaps at a still greater expense. We too have our disorganisers. But, I trust, there is enough of virtue and good sense in the people of America, to baffle every attempt against their prosperity, though masked under the specious garb of an extraordinary zeal for liberty. They, practically, I doubt not, adopt this sacred maxim,—that without government, there is no true liberty."

"'Tis certainly not wise to expose ourselves to the jealousy and resentment of the rest of the world, by a fruitless display of zeal for that cause. It may do us much harm. It can do France no good, (unless indeed we are to embark in the war with her,) which nobody is so hardy as to avow, though some secretly *machinate* it. It cannot be without danger and inconvenience to our interests to impress on the nations of Europe an idea that we are actuated by the *same spirit*, which has for some time past fatally misguided the measures of those who conduct the affairs of France, and sullied a cause once glorious, and that might have been triumphant."

* Hamilton's Works, v. 564.

"The cause of France is compared with that of America, during its late revolution. Would to Heaven, that the comparison were just. Would to Heaven, that we could discern in the mirror of French affairs, the same humanity, the same decorum, the same gravity, the same order, the same dignity, the same solemnity which distinguished the course of the American Revolution. Clouds and darkness would not then rest upon the issue, as they now do."

"I own I do not like the comparison when I contemplate the horrid and systematic massacres of the second and third of September. When I observe, that a Marat and a Robespierre, the notorious prompters of those bloody scenes, sit triumphantly in the Convention and take a conspicuous part in its measures—that an attempt to bring the assassins to justice has been obliged to be abandoned. When I see an unfortunate prince, whose reign was a continued demonstration of the goodness and benevolence of his heart, of his attachment to the people of whom he was the Monarch; who, though educated in the lap of despotism, had given repeated proofs that he was not the enemy of liberty—brought precipitately and ignominiously to the block, without any substantial proof of guilt as yet disclosed—without even an authentic exhibition of motives in decent regard to the opinions of mankind,—when I find the doctrines of Atheism openly advanced in the Convention and heard with loud applauses—when I see the sword of fanaticism extended to force a political creed upon citizens who were invited to submit to the arms of France as the harbingers of liberty —when I behold the hand of Rapacity outstretched to prostrate and ravish the monuments of religious worship erected by those citizens and their ancestors; when I perceive passion, tumult, and violence usurping those

seats, where reason and cool deliberation ought to preside ;—I acknowledge, that I am glad to believe, there is no resemblance between what was the cause of America, and what is the cause of France—that the difference is no less great than that between Liberty and Licentiousness. I regret whatever has a tendency to confound them ; and I feel anxious as an American, that the ebullitions of inconsiderate men among us may not tend to involve our Reputation in the issue."

To counteract these exhibitions of popular feeling, and to sustain the President, Hamilton exerted his influence with the merchants.

On the day the demonstration was made in favor of Genet, they assembled and presented an address to the President, expressing their gratitude for the proclamation of Neutrality, and their opinion, "that in an unoffending conduct towards all the world the true policy of America consisted—in their determination to pay the strictest regard to its injunctions, and to discountenance any opposite disposition." The Reply commented on the importance of observing a strict neutrality, and expressed a hope that the Citizens would show, that "they have as much wisdom in preserving peace, as they heretofore displayed valor in defending their just rights."

Meanwhile, animated appeals were made to the passions of the people, in the Gazette edited by Freneau, who was constituted the agent for receiving subscriptions in aid of France.

They were told, that the arrival of Genet would operate "as a powerful auxiliary in the cause of equality —that thus the gorgeous trappings of monarchy would be no longer substituted for republican simplicity."

The purchase of arms and military accoutrements to be exported to France—the condemnation by the French

consul at Charleston of a prize to a French frigate—the armament of French privateers in the ports of the United States;—the manning of them by American seamen—the captures made by them, and the taking of a British ship * by a French frigate within the waters of this Country—were the subjects of several urgent memorials from the British Minister.

These memorials called for the decision of the Government; some of them for its immediate interposition. If sanctioned and not redressed, these acts were just causes of war.

The opinions of the Cabinet were again asked by the President as to the notice which should be taken of these proceedings, and whether the prizes ought to be restored.† ‡ •

Jefferson was of the opinion, that as it was the first case, in the first moment of the war, in a remote harbor, before measures could be taken to meet such cases, and not a premeditated wrong, that a "very moderate apology ought to satisfy Great Britain."

He advised, that these prizes should not be restored. If the Commissions under which they were made were valid, the captures were legal—If not, the condemnation and restoration should be through the agency of the Courts.

To restore them by the direct interference of the Government would be an act of reprisal, for it could only be "by an act of force;"—and such reprisal should be preceded by a demand and refusal of satisfaction, as it was considered as an act of war, and must result in war. If a reprisal be required, the power of taking it was vested in Congress, and not in the Executive department.

* The Grange. † May 16. ‡ Hamilton's Works, iv. 402.

To disavow the act, to prevent its repetition by prosecuting the American citizens engaged in it; and to give an assurance, that effectual measures would be taken for that purpose, were sufficient to justify us with Great Britain; and, if she demanded further reparation, it "would be a wrong" on her part.

In this opinion Randolph concurred. "Upon principle," he said, "restitution ought not to be attempted." *

Hamilton had previously taken a full view of the subject. He observed,† "The jurisdiction of every *Independent* Nation within its own territories, naturally excluding all exercise of authority by any other Government within those territories, unless by its own consent, or in consequence of treaty stipulations; every such exercise of authority not warranted by consent or treaty, is an intrusion on the jurisdiction of the country within which it is exercised, and amounts to an injury and affront more or less, according to the nature of the case."

"The equipping, manning and commissioning a vessel of War, the enlisting, levying, or raising of men for military service, whether by land or sea—all essentially of the same nature—are among the highest and most important exercises of Sovereignty."

This was therefore deemed an injury and affront of a very serious kind.

"The writers on the law of Nations regard it as a heinous offence—as a violation of one of the most sacred rights of the State; an act for which the parties engaged in it, not being presumed to have the sanction of their Government, or, if they had it, not being bound to obey it, are hanged immediately and very justly. They declare, if it appears that they acted by order, such a pro-

* Hamilton's Works, iv. 406, May 17, 1793.

† Ibid. 394, May 15, 1793.

ceeding in a foreign Sovereign is justly considered an injury, and is a sufficient cause for declaring war, unless suitable reparation is made."

There being neither treaty nor consent to warrant what was done by Genet, it being still more offensive than mere levying of men, it was declared by Hamilton to be an act, as to which the United States were entitled to reparation.

As to the inquiry, whether the United States were under an obligation to redress any injury to Great Britain from the irregularity committed by France, the Secretary of the Treasury affirmed, that "it is manifestly contrary to the duty of a Neutral Nation to suffer itself to be made the *instrument* of hostility by one power at war against another;" that by so doing it became "an associate—a party."

"If France could, ad libitum, build, equip, and commission in the ports of the United States vessels of War—man those vessels with American seamen; send them out of their ports to cruise against the enemies of France; bring or send prizes into the ports;—dispose of them there and repeat these expeditions at pleasure—the United States would become an effectual instrument of hostility. She might by the same rule levy troops,—march them through the United States, and attack the Spanish and British possessions at pleasure."

From either of these acts a state of war "would result and of the worst kind, because while the resources of our Country would be employed in annoying them, the instruments of this annoyance would be occasionally *protected from pursuit by the privileges of an ostensible neutrality.*"

"It was easily to be perceived, as a consequence of these acts, that the United States would soon be treated

as an associate of France, and become a party to the war."

It was admitted by Jefferson and Randolph, that the Government was bound to *prevent* these practices, and it was agreed, that an assurance should be given to the British Minister, that *effectual* measures would be taken for that purpose. But they denied the obligation of the United States to interpose to remedy the effects which had ensued.

Hamilton stated, that "the obligation to prevent an injury, usually, if not universally, included that of repairing or redressing it when it had happened—that it being contrary to the duty of a neutral nation to suffer cruisers to be fitted out in their ports to annoy the British trade, —it comported with their duty to remedy the injury when it was in their power so to do."

He denied that the act being done before the United States was prepared to prescribe a preventative, created a dispensation from the obligation.

"A Government is responsible for the conduct of all parts of the community over which it presides. It is supposed to have at all times, a competent police everywhere to prevent infractions of its duty towards foreign nations. The magistracy of South Carolina, ought not to have permitted what was done, and the Government is answerable for the consequences of its omissions."

"The act having been unexpected and unforeseen, justice often required that *excuses* for such circumstances bona fide offered, should be admitted as satisfactory;—but that these were excuses, not justifications, and only to be received when the remedy was out of the power of the United States.

"Had the privateers proceeded to cruise in regions beyond the arm of the United States, this surprise upon

the Government ought to have been a satisfactory excuse. But their prizes being sent within the American dominion —the power to administer a specific remedy existed, by causing a restitution of the property taken;" and such he conceived was the duty of the Government.

To the objection of Jefferson and Randolph, that the captures being made under commissions which, though irregular towards the United States, were valid between the parties at war, and that the captors could not be deprived of them without a violation of their rights and an aggression on the part of America, Hamilton replied, that though the commissions were legally valid between the parties at war, yet the acts under them being a violation of the rights of a Neutral nation, for which it had a *claim to* reparation, and a right to make war, if it were refused; that it might reasonably demand restitution, of the property taken, and an apology for the infringement of its sovereignty.

To the suggestion of the Secretary of State and of the Attorney-General, that these captures having no validity, originating in a violation of the rights of the United States, who were not bound to respect them, "why not send them to the animadversion and decision of the Courts of Justice?" Hamilton answered, "It is believed, they are not competent to the decision. The whole is an affair between the Governments of the parties concerned, to be settled by reasons of State, not by rules of law." "'Tis the case of an infringement of our Sovereignty to the prejudices of a third party, in which the Government is to demand a reparation, with the double view of vindicating its own rights, and of doing justice to the suffering party;" a case to which that of contraband articles bears no analogy. The distinction is stated.

The agreement by the other members of the Cabinet

to take measures to punish American citizens engaged on board the privateers, while they refused to interfere in order to prevent the shipment of arms; and the determination to assure the British Minister that effectual measures would be taken to prevent a repetition of these acts, contained "a recognized distinction of the principle, and a virtual recognition of the consequences contended for."

In his view, "Great Britain would have a right to consider a refusal to cause restitution to be made, as equivalent to becoming an accomplice in the hostility; as a departure from neutrality;—as an aggression upon her;" and Hamilton declared, "that, in a case of so palpable and serious a violation of our rights, aggravated by several collateral circumstances, the mention of which is purposely waived, a decided conduct appears most consistent with our honor and our future safety."

To this opinion the Secretary at War assented.

On the question of restitution, the Cabinet being divided, the President deliberated. Jefferson had artfully raised a doubt, whether the GRANGE was captured within the waters of the United States. The investigation was referred to the Attorney-General, who now pronounced, that she had been "seized on neutral ground, and that the duty arising from this illegal act was restitution." The decisions of the Executive were communicated to Hammond and Ternant, Genet not having yet been accredited. They were also informed by Jefferson, that either party at war would be permitted to purchase and export arms, and that the Government would take "effectual measures to prevent the future commissioning, equipping and manning of vessels in our own ports to cruise on any of the belligerent parties."

While these questions were before the Cabinet, the Gazette of Jefferson announced that the Governor of

South Carolina had exercised neither his power nor his influence to prevent the arming of French Vessels for their own defence. Articles were also published, stimulating the hostility of the people against Great Britain, denouncing the proclamation of neutrality, and urging a descent upon the Canadas.

Two days after his arrival at the Seat of Government, Genet was presented to the President.

Washington assured him of his cordial affection to the French Nation, but avoided any allusion to the recent revolution. This omission was remembered, and was subsequently reproved, as an evidence of his indifference to the cause of liberty!

On the same day, a public dinner was given to the French Envoy by his zealous partisans.

After many toasts in honor of the National Convention, of "Liberty and Equality," of perpetual union and fraternity between the allied nations, the Marsellaise Hymn was sung with additional stanzas, composed by Genet. A deputation arriving from the "Ambuscade," the French Minister entertained the party with another song, amid loud plaudits. The Cap of Liberty was raised from the table, was placed on the head of Genet, and then passed from head to head—each guest enlivening these orgies with a sentiment. The spectacle terminated in a procession to his residence, with the Minister in front.

An extract from a foreign paper was at this time circulated, that the American Ambassador had been murdered at Paris.—The supposed murder was excused by the Democratic papers on the ground that the sentiments of that individual were favorable to the fallen dynasty; and astonishment was expressed that he had been "suffered to live so long, under the protection of an American diploma, to triumph in unexampled folly and impertinence."

To proffer benefits at the instant it was meditating the deepest injuries was the system of the Revolutionary party of France.

A more immediate motive, prompted by the pecuniary embarrassments of that party, suggested a politic movement. On the twenty-second of May, Genet applied to the Secretary of State for a prepayment of the installments of the debt to France, offering to employ it in the purchases of provisions, naval stores and other articles within the United States; and, on the following day, he transmitted a decree as to the commerce of the two nations.

This decree bears date two days after the declaration of War against Great Britain, prefacing that it would "prove the Republic to be a faithful and generous ally, as well as a most determined enemy to all who wantonly affront her." The decree opened the French colonial ports to the vessels of the United States on the same terms with French vessels. A purpose was avowed, "to negotiate with the *Congress* of the United States for a like reduction of the duties thus granted to American merchants in favor of those of France;" and it declared, that France had "suspended the recent law which inhibited the Americans from *introducing*, *selling* and *arming their vessels in* France, and from enjoying all the advantages allowed to those built in the ship-yards of the Republic." This coup d'etat was announced by Genet in characteristic phrase. "France comes in the very time when the emissaries of our common enemies are making useless efforts to neutralize the gratitude, to damp the zeal, to weaken or cloud the view of your fellow-citizens; She comes, I say, that generous nation—their faithful friend—to labor still to increase the prosperity, and add to the happiness which she is pleased to see them enjoy." This was to be the

basis "of a true family compact on which she wishes to be raised the commercial and political system of two people, all whose interests are confounded."

This was the commercial policy early suggested by Jefferson, but not acceded to. Though now dictated by the necessities of her West Indies and by other motives, and though combined with an obvious attempt to make this country a party to the war, it was applauded, as abounding evidence of the friendship of a disinterested and generous ally.

The novel spectacle now opening before this nation in the conduct of the minister of that ally, much as there was to explain it in the warmth of his character, and in the braggart counsels of the Revolutionary party which governed France, cannot be fully understood without keeping in view the acts and opinions of men upon whom France placed too well-founded a reliance.

Ostensibly sustaining the neutral policy which had been determined, at heart it was most galling to them. On the nineteenth of May, Jefferson writes to Madison: "I dare say you will have judged from the pusillanimity of the Proclamation from whose pen it came. A fear lest any disaffection should be discovered is distinguishable enough. This base fear will produce the very evil they wish to avoid; for our constituents, seeing that the government does not express their mind, perhaps leans the other way, are coming forward to express it themselves." * * * * After applauding "the purport of the mission" of Genet, he adds: "In short, my dear sir, it is impossible for you to conceive what is passing in our conclave; and it is evident, that one or two, at least, under pretence of avoiding war on the one side, have no great antipathy to run foul of it on the other, and to make a part in the confederacy of powers against human liberty."

Of these, his opinions and feelings, Genet was early, though confidentially apprised by Jefferson, familiar with the views of the ruling party in France, at whose house it is stated the Jacobin club originated.

A few days after the requested payment of the balance of the debt which the United States owed, the French ambassador replied to the letter which had been addressed to his predecessor, announcing the decision of the Cabinet as to the prizes recently taken under his orders.

The character of this reply proves how much he was intoxicated by the adulation shown to him, and how far his intentions were from an adherence to the neutrality he professed it was his desire to observe.* He insisted that the treaty of seventeen hundred and seventy-eight gave to France all that it precluded the contracting parties from granting to others, the restrictions upon other nations being claimed as grants of privileges to the allies —France and America. He avowed the arming vessels partly with American citizens by his authority, stating that this course had received the approbation of the Governor of South Carolina, and that it was not prohibited by any law of the United States. He said, that this conduct, "he dared to call respectable," and expressed the "pleasing hope of seeing the Federal Government *return* from the first impressions which the Reports of the British Minister appear to have made on it." He finally asserted, that he had ordered a restitution of the Grange, and authorized an assurance to be made to the American government, "that the French Republicans will seize every occasion of showing to the sovereign people of the United

* Genet had said, "France does not expect that America should become a party in the war, but that her citizens will be treated as brothers in danger and distress."

States their respect for their laws, and their sincere desire to maintain with them a most perfect harmony."

The correspondence of Jefferson and Madison at this period throws light upon its history. "The doubts I then entertained," Jefferson writes to Madison,* "that the offers from the French Republic would be declined, will pretty certainly be realized. One person represents them as a snare into which he hopes we shall not fall. His second, of the same sentiment of course. He whose vote for the most part, or, say always, is casting, has, by two or three private conversations or rather disputes with me, shown his opinion to be against doing what would be a mark of predilection to one of the parties, though not a breach of neutrality *in form*; and an opinion of still more importance is still in the same way. I do not know what line will be adopted, but probably a procrastination which will be immediately seen through." On the same day, Madison writes to Jefferson: "I think it certain that he" (Genet) "will be misled, if he takes either the fashionable cant of the cities, or the cold caution of the government for the sense of the public; and I am equally persuaded, that nothing but the habit of implicit respect will save the Executive from blame, if, through the mask of neutrality, any secret Anglo-many should betray itself." Again he wrote, "I have heard it remarked by such with some surprise that the President should have declared the United States to be neutral in the unqualified terms used, when we were so notoriously and unequivocally under eventual engagements to defend the American possessions of France. I have heard it remarked also, that the impartiality enjoined on the people was as little reconcilable with their moral obligations as

* May 27, 1793.

the unconditional neutrality proclaimed by the government is with the express articles of the treaty. It has been asked also, whether the authority of the Executive extended, by any part of the Constitution, to a declaration of the disposition of the United States on the subject of war and peace. I have been mortified that on these points I could offer no bona fide explanations that ought to be satisfactory. On the last point, I must confess my surprise, that such a prerogative should have been exercised. I am extremely afraid, that the President may not be sufficiently aware of the snares that may be laid for his good intentions by men, whose politics at bottom are very different from his own. An assumption of prerogatives not clearly found in the Constitution, and having the appearance of being copied from a monarchical model, will beget animadversions equally mortifying to him, and disadvantageous to the government. But all his real friends will be anxious that his public conduct may bear the strictest scrutiny of future times, as well as of the present day; and all such friends will be deeply pained at infractions of it under auspices that may consecrate the evil, till it be incurable."*

Genet's recent offensive dispatch was submitted to the President, and a Cabinet council was called. The question was raised,† "May an armed vessel arriving here be prohibited to employ their own citizens found here as seamen or marines?" Jefferson was of the opinion "that they cannot be prohibited. Hamilton and Knox that they may and ought to be prohibited." The President directed the Secretary of State so to apprise Genet.

* June 13, 1793.

† "Recapitulation" in Jefferson's autograph "of Questions whereon we have given opinions."

Hamilton felt, at the outset of the official intercourse with this person, the importance of a tone indicative at the same time of a due respect to the rights of France, and of a firm resolve to respect the neutral rights of other nations, and to maintain those of the United States.

The double design of the Secretary of State, ostensibly to support the decisions of the Cabinet, and to be well with the numerous partisans of France, rendered this not a little difficult. Jefferson framed a letter to Genet as to the French vessels armed within the United States, which was submitted to the Heads of the Departments. Randolph made this comment:* "The requisition of departure is, in my judgment, expressed in the most accurate and satisfactory manner possible. It gives me real pleasure to find the strong measure capable of such a softening of feature, while it retains full nerve. Were I to speak for myself as an individual, I should assent with equal cordiality to the last clause. But I can't help believing, that *it would accord better with a neutral situation —to omit the reciprocation of affections.* The existence of this is too manifest in the people to render any *very warm* expression of it on the part of the government necessary to convince the French of our fidelity." The paragraph referred to was erased. The draft was next submitted to Hamilton.

By comparing the letter in its final shape with the Cabinet opinion recently given by him, it is obvious, that the substance of it was from the pen of the Secretary of the Treasury. It stated, that the subjects of his former letter had been re-examined.—"After fully weighing again all the principles and circumstances of the case, the

* May 31.

result appears still to be, that it is the *right* of every nation to prohibit acts of sovereignty from being exercised by any other within its limits, and the *duty* of a neutral nation to prohibit such as would injure one *of the* warring powers; that the granting military commissions within the United States by any other authority than their own was an infringement on their sovereignty, and particularly so, when granted to their own citizens to lead them to acts contrary to the duties they owe their own country;—that the departure of the vessels, thus illegally equipped, from the ports of the United States, would be but an acknowledgment of respect analogous to the breach of it, while it is necessary on their part, as an evidence of their faithful neutrality. The President thinks, that the United States owe it to themselves and to the nations in their friendship, to expect this act of reparation on the part of vessels, marked in their very equipment with offence to the laws of the land, of which the law of nations makes an integral part."*

On the same day, Jefferson announced to Hammond, defending his view of the obligation of the United States, explaining what had occurred—as acts done, when it was impossible for the government to have known, and therefore it was impossible to have prevented them—that the armed vessels had been ordered to depart, but that the ulterior measure of seizing and restoring the prizes was declined in justice to France.†

To this reply of the government, Genet rejoined, asserting the right of arming *within* the United States; that as long as "*the States* assembled in *Congress*" had not determined that the treaties under which he claimed

* Jefferson's Works, iii. 238, June 5, 1793.

† Jefferson's Works, iii. 239.

the right should not be performed—"no one has a right to shackle our operations, and to annul their effect by hindering our marines in the American ports accepting French commissions."

The issuing of the commissions to the Privateers was alleged by him to be an act of consular authority, and not of Sovereignty; and "every obstruction by the government of the United States, to the arming of French vessels, must be an attempt on the rights of Man, upon which repose the independence and laws of the United States—a violation of the ties which unite the people of France and of America; and even a manifest contradiction of the system of neutrality of the President; for if, in fact, our Merchant Vessels or others, are not allowed to arm themselves,* when the French alone are resisting the league of all the tyrants against the liberty of the people, they will be exposed to inevitable ruin in going out of the ports of the United States, which is certainly not the intention of the people of America. Their fraternal voice has resounded from every quarter around me, and their accents are not equivocal—they are pure as the hearts of those by whom they are expressed, and the more they have touched my sensibility, the more must they interest in the happiness of America, the nation I represent; the more I wish, Sir, that the FEDERAL GOVERNMENT should observe as far as in their power, the public engagements contracted by both nations; and that by this generous and prudent conduct, they will give at least to the world the example of a *true* neutrality, which does not consist in the *cowardly abandonment* of their friends in the moment when danger menaces them, but in adhering

* The prohibition complained of was of French *cruisers* arming for *hostile* purposes.

strictly, if they can do no better, to the obligations they have contracted with them. It is by such proceedings that they will render themselves respectable to all powers, that they will preserve their friends, and deserve to augment their number."

CHAPTER XC.

While Genet was thus bearding the Government, the National Gazette was sustaining him, and extracts were published from the opposition presses of increasing vehemence in behalf of France.

An annunciation by the French consul at Charleston was promulgated, that to protect themselves from the insults of the British, the French seamen had resolved to carry arms in the public streets;—while, to prevent any violation of the public peace, the Minister of England issued a card requesting British seamen to abstain from acts of violence.

The arming privateers and manning them with American seamen was defended as the right of France. An inflammatory address * to the President was published, arraigning him before the community with "double dealing"—conduct, "savoring of Monarchical mystery and Court intrigue."

The Proclamation of neutrality was charged to have been issued for the purpose of showing that the treaties with France "were of no obligation."—It was denounced as an act "disgraceful to the American character," and its effect predicted—the provoking "the French nation

* Veritas, June 1, 1793, *National Gazette.*

to hostilities."—A second Civic feast was given to the French Minister, at which the sentiments were all directed against the conduct of the Administration—imputing it to foreign influence and teeming with avowals of attachment to France.

War with England was urged as the proper policy of the United States, and it was averred that those "who were unfriendly to the French revolution were at least inimical to liberty, and to the rights of the people in their own country." *

In pursuance of the determination of the Executive, a prosecution was commenced against two American citizens, Henfield and Singletary, for a violation of the laws of Nations in having served on board a French privateer which captured a British vessel.

On the instant † of their arrest, the interposition of the French minister was called for.—Genet wrote an angry letter to the Secretary of State, observing: "The crime laid to their charge, the crime which my mind cannot conceive and which my pen almost refuses to state, is the serving of France, and defending with her children the common and glorious cause of Liberty.—Being ignorant of any *positive law* or treaty which deprives Americans of this privilege, and authorizes officers of police arbitrarily to take marines in the service of France, from on board their vessels, I call upon your intervention, Sir, and that of the President of the United States, in order to obtain the immediate releasement of the above-

* On the day of the arrival of Genet at Philadelphia, Robert R. Livingston writes to James Monroe—"May 16, 1793. Two measures present themselves.—The first is to grant letters of marque, *instantly*;—the second—to *connive* at the fitting out of privateers under French colors—by giving a more liberal construction to the words of the treaty."

† June 1, 1793.

mentioned officers, who have acquired, by the sentiments animating them, and by the act of their engagement, anterior to every act to the contrary, the right of French citizens, if they have lost that of American citizens."

This extraordinary note was thought worthy of a mild reply by Jefferson. Genet was informed, that it had been laid before the President; that the party arrested was in the custody of the civil magistrate, over whose proceedings the President had no control—that the act would be tried by a jury of his Countrymen in the presence of judges of learning and intelligence; and, if it is contrary to the laws of the land, no doubt is entertained that it will issue accordingly. He was assured, that, though the forms of law involve necessary delays, he would experience none but what are necessary.—This reply enclosed a copy of the opinion of the Attorney-General, showing the grounds of the procedure—that it was an offence against the treaties of the United States, and also indictable at common law, as a disturbance of the peace.

The reply to this extraordinary note of Genet was submitted to Hamilton, who wrote to Jefferson on the third of June, "I approve all the drafts of letters as they stand, except that I have some doubts about the concluding sentence of that on the subject of Henfield. If the *facts* are (as I presume they are) established, may it not be construed into a wish, that there may be found no law to punish a conduct in our citizens, which is of a tendency dangerous to the peace of the nation, and injurious to powers with whom we are on terms of peace and neutrality? I should also like to substitute for the words, 'have the favorable issue you desire,' the words 'issue accordingly.'"—The modifications were made.

The National Gazette immediately published an article upon this subject.

It asked whether these men were apprehended "on the strength of the proclamation of neutrality? If so, the freemen of this country have degenerated into subjects, instead of being exalted into citizens."

"Have proclamations the force of law in this country? If they are to have the effect of laws, better at once convert Congress into an ancient French Parliament for registering edicts."—It was assimilated to a recent proclamation of the King of England forbidding his subjects entering the service of France on pain of death; and it was asked, "had France contributed to the freedom of England,—did her political happiness owe its establishment to France, would the King have issued a proclamation to this effect? Corrupt as he is, he would scarcely have carried his degeneracy to such a length." It was "an invitation to England to insult and invade" the United States!

Such was the permitted language of a gazette established by the Secretary of State, who, in a recent official letter to the French minister, had declared the purpose of the government in these terms—"We will exert all the means with which the laws and constitution have armed us, to discover such offenders and bring them to condign punishment." *

At the same time, an inquiry was put whether the posts had been surrendered, "If not, for what reason.—Had a demand been made? whose duty is it—that of the Legislature or the Executive to do it? Is it the interest of the United States that they be given up?"

Washington, feeling this imputed neglect of his duties, directed the Secretary of State to consider, whether Hammond should be called upon to state the result of his

* Am. Arch. For. R., i. 148.

reference to his Government, or whether it was best "to wait the decision of a pending trial at Richmond" as to the obligation of debts due to subjects of Great Britain, incurred previously to the war of the Revolution.*

This was a strong motive for delay. The recent refusal to cause restitution of the prizes made by French vessels had raised a serious question with Great Britain, which had been referred to her Government. At such a moment, to quiet, not to irritate, was emphatically demanded by the interests of the United States. The President's recent letter left it to the discretion of Jefferson, whether to get the opinion of the Cabinet, then in session, as to the course to be pursued. He did not submit it to their consideration, but in pursuance of the policy he had adopted, wrote on the nineteenth of June to the British minister urging a reply to his letter relating to the unexecuted articles of the treaty of peace;—observing, as reasons for anxiety, "the interest we have in the Western posts, the blood and treasure which their detention costs us daily." Hammond answered, that the representation had been forwarded to England, attributed the delay to the important and pressing nature of the events in Europe—and asked, whether the allusion to the Indian war was intended to impeach the good faith of his country? The delay in the fulfilment of the stipulations of the United States he urged, were equally a source of disquietude to England.

During this period of excitement, a libel was filed in the Court of Admiralty of Pennsylvania by the owners of a British Ship, the "William," captured by the privateer "Genet," and a process was served by the Marshal of the District.

* June 1, 1793.

This matter was brought before the consulate of France, and a protest was made by the Consul, and recorded in its chancery against the Court of Admiralty and all those engaged in the prosecution, as a violation of the treaty.

At the same time, a vessel fitted out in New York as a privateer was detained by the Governor of that State, and prevented sailing.

These two proceedings gave great dissatisfaction to Genet, and on the seventh of June he wrote to the Secretary of State charging these acts of "civil and judiciary Officers" as committed in contempt of treaties, and of the "laws of nations,"—calling upon the President to interpose;—claiming restitution and damages.

Soon after, this case came up for adjudication.—As had been anticipated in the Cabinet opinion of Hamilton, the Court decided, that it had no jurisdiction,—that affairs of prizes are only cognizable in the Courts of the power making the capture; and that no Court of one Sovereign had a right to try the validity of prizes taken by the ships, public or private of another—that it was a matter of political, not of judicial investigation.

A Cabinet Council was held on the seventeenth of June to consider these matters. The nature of the answer was settled, and Jefferson forthwith replied to Genet, denying that the case he referred to was that of a vessel arming merely for her own defence, and to repel unjust aggressions, but of a vessel armed, equipped, and manned in a port of the United States for the purpose of committing hostilities on nations at peace with them—avowing the detention of the vessel at New York as an obedience to orders;—and informing him, that this second attempt being, after full knowledge of the first, and indicating a disposition to proceed in opposition to the laws, they

would now take their course against aliens as well as citizens.

Genet answered, charging the Government with interposing to his first reclamations on the footing of right "the private or public opinions of the President."—"This Ægis not appearing to you sufficient," he remarked, "you bring forth aphorisms of Vattel to justify or excuse infractions on positive treaties."

This conduct is contrasted with that of France.—The Federal Government is again charged, without waiting for the action of Congress, with multiplying difficulties and embarrassments in his way.—They were told, that arbitrary orders had been directed against the action of their tribunals; and that he had met with nothing but disgust and obstacles in the negotiations he had been charged with.

"It is not thus," he said, "the American people wish we should be treated. I cannot even suppose and I wish to believe that measures of this nature were not conceived in the heart of General Washington, of that hero of liberty.—I can attribute them only to extraneous impressions over which time and truth will triumph."

This offensive letter was probably withheld by Jefferson, as a communication of the following day merely states that the Governor of Georgia had, in consequence of general orders given by the President, arrested a privateer fitted out by British subjects—giving an assurance of the determination to use the utmost vigilance to see that the laws which forbid these enterprises should be carried into execution.

The answer of Genet enumerated cases, which he alleged to have occurred, of a similar character,—though French adventurers, adopting the same measures, had been pursued with rigor.

While thus casting censure on the Government, he* asked a supply of arms by the United States, but to be so covered as to give the appearance of their being furnished by individuals.—This was followed by a proposition that the United States should at once pay all the future instalments of the French debt—either in specie or Bank bills of equal currency with specie, or in Government bonds bearing interest, payable at certain specified periods—provided the sum advanced should be invested in produce of the United States for the supply of the French dominions.—This request was referred by the President to the Secretary of the Treasury.

A similar application through an individual, it is seen, had been made, and deliberately rejected by the Cabinet. "The grounds of the determination," Hamilton stated, "were purely political.—Nothing has hitherto happened to weaken them." The only question was, should this determination be communicated "with or without reasons."—Not to give reasons was preferred—as the United States were "not bound to make the anticipated payments desired," and as "no adequate reasons but the true ones can be assigned, and the assignment of these would not be wholly without inconvenience. The mention of them might create difficulties in some future stage of affairs, when they may have lost a considerable portion of their force." Jefferson stated, that the omission of reasons "would have a very dry and unpleasant aspect," thought favorably of advancing the installments of the year at epochs convenient to the Treasury, and suggested a different course. A still further modification of the answer being urged, Hamilton adhering to the ground he had taken, finally reported the true reasons, that the re-

June 8, 1793.

sources of the Treasury would not permit a payment in specie or Bank bills,—as Government had relied for the means of reimbursing its foreign debt on new loans to be made abroad, to the negotiation of which the recent events in Europe had produced a temporary obstacle.

The issue of Government bonds, he stated, had been repeatedly proposed and declined, as endangering its credit and tending to embarrass its finances.—This was the more objectionable now, as the possible exigencies of the United States admonished them to be particularly cautious of any measure tending to hazard or impair their credit.

These considerations were deemed by him to outweigh the advantages to be derived from an investment in the produce of the United States,—advantages of little moment in the present and probable state of demand for these products.*

A copy of this Report was enclosed to Genet, and the arguments of it were enforced by comments from Jefferson—on the time, prudence, and patience required to carry on the operations of the Funding System.

He stated a principal motive for economizing the public credit was, that "of preserving the means of discharging the French debt with punctuality and good faith."

Genet replied, that "elevated minds would not expose themselves twice to a refusal;—that the object of the application was to prevent France suffering the horrors of famine;—that, without entering into the Financial reasons which operated this refusal;—without endeavoring to prove that it tends to accomplish the infernal system of the King of England and of the other Kings his accomplices—to destroy by famine the French republicans and liberty,—he attended only to the calls of his Country—

* Hamilton's Works, iv. 414, 415, 417, 420. June 8.

that he intended to give assignments to the American merchants or farmers; and therefore, he requested the President to prescribe to the Secretary of the Treasury, to adjust immediately the amount of the debt to France."

He was informed, that this would be done without delay; and as to what further was to be done would be the subject of further reflection, especially his last proposition;—which it was believed, was "a measure too questionable both in principle and practicability—too deeply interesting to the credit of the United States, and too unpromising in its result to France to be found eligible to yourself."

Disappointed in this effort to anticipate the debt, the French minister next announced to the Government his determination.

The arrangement made to relieve the sufferers of Saint Domingo will be recollected. The funds advanced were specially appropriated for the payment of bills previously recognized by the former agents of France, held by American citizens who had furnished the supplies.

Genet now informed the administration of his intention, under "the empire of circumstances," to suspend the payment of those drafts, and "to employ the funds destined for their acquittal to the purchase of provisions for France and her Colonies;" and of his purpose to issue an address to the American citizens, advising them that the National Convention would eventually pay the previous colonial bills, to record them in the Consulate of France, encouraging them to succor their Republican brethren of the West Indies, assuring to them a prompt payment in cash or merchandise.

Though the situation of France would render the proposed measure of Genet highly convenient to her rulers,

it would have been a powerful means of rewarding and increasing the number of Genet's partisans.

The subject being referred to Hamilton, he penned this reply, which the Secretary of State was directed to make:

"In answer to your letter of the eighteenth instant, I am directed by the President to inform you, that the fund in question has been so clearly understood, in all hazards, to be specifically appropriated for the payment of the bills which were recognized by the former agents of France here, as to be incapable of being diverted without disappointing the expectations of our citizens—holders of such bills. Indeed, the Government has been so much a party in countenancing those expectations, as in such an event to be under an obligation, in point of propriety, to satisfy the parties themselves to the extent of the balance which yet remains to be advanced."

Had the hesitations of the President upon some of the questions which arose been disclosed to Genet, he could not have adopted more readily the policy of embarrassing his course by the constant presentation of points of difficulty and delicacy.—Resolved to pursue his object, regardless of the declared will of the Government—he deemed it an advantage to multiply its difficulties promising to himself increasing displeasure towards the administration on the part of the people, from every instance in which his views were not assented to. Of this kind was an objection raised to the departure of the "Ambuscade" frigate in pursuit of a British packet, then about to sail from New York.—The Governor of that State insisted, that, by the laws of neutrality, twenty-four hours should elapse before pursuit was made.

This interposition was reported to Genet, who issued an order to the French consul, denying the right of the American Government to interfere; and recommending

him "to oppose it with energy, analogous to the sentiments of friendship avowed to the United States."

While these urgent matters were pressing on the Cabinet, it was called to the consideration of the policy to be adopted in relation to the War then waged between the Chickasaw and Creek Indians.

A short time before, the Government had resolved to endeavor to negotiate a peace with the savages residing in the North Western territory. A Cabinet meeting was then called to consider, in case a cession to the Indians would be necessary of any part of the lands North of the Ohio, obtained by former treaties, whether the Executive, or the Executive and Senate together, had the right to relinquish the right of soil. All of the members of the Cabinet, Jefferson excepted, were "of opinion that the Executive and Senate had such authority, provided that no grants or reserves to States be infringed." *

No treaty having been at that time effected, the western border continued to be a scene of frequent conflicts.

The Creeks had long been the most powerful and hostile enemy on the southern frontier of the United States.

The Secretaries of State and War recommended,† that an agent be sent "secretly to engage" the Chocktaws to support the Chickasaws, giving them arms and ammunition—it being kept in view, if this Government settled amicably its differences with the Creeks, that they should "mediate effectually the peace of the Chickasaws and Chocktaws."

The Attorney-General approved the employing Indians against Indians, but doubted the policy of the meas-

* Hamilton's Works, iv. 340.

† Cabinet Opinion.—Hamilton's Works, iv. 408, 9.

ure at this time, lest it should draw the Spaniards into the War.

Hamilton decided against it, on the ground, that the United States could, neither "honorably, nor morally, nor with good policy, embark the Chocktaws in the War without a determination to extricate them from its consequences, even by force."—He stated, that he understood the proposal "to mediate effectually, the peace of the Chickasaws and Chocktaws, to mean"—that they were to insist with the Creeks on such terms of peace for them, as shall appear to us equitable, and, if refused, to exert ourselves to *procure them by arms.*

"He was unwilling, all circumstances, foreign and domestic considered, to embarrass the Government with such an obligation."

While the conduct of Genet would seem to have admitted of but one course consistent with what was due to the dignity of the Government, the Secretary of the Treasury was afflicted at the indecision which the divisions in the Cabinet had produced.—He saw the President insulted day after day,—the proclamation of neutrality reprobated as a flagrant violation of the Constitution; and, in vain; he urged a requisition that the author of these insults should be recalled by his Government.

He was not aware of the means which were employed to weaken his influence with Washington, who, perhaps from the tone of the public feeling, may have doubted, whether he would have been sustained in an opposition to the popular current.

Washington complained to Jefferson of the attacks upon him through the press, but his complaints were unheeded. Emboldened by the excitement of the people, Jefferson resolved that he would not interpose a check to

its licentiousness.* Yet the men who were professing friendship and cultivating the confidence of the President, who had established and were controlling and contributing to this Gazette, affected to regret these publications. Indeed, the language in which these regrets were couched, when compared with some of these attacks, would indicate the same source of both.

A short time after Washington had adverted to these calumnies, Jefferson writes to Madison: "The President is not well, owing to returns of fever which have affected his looks remarkably. He is also extremely affected by the attacks made and kept up on him in the public papers. I think he feels these things more than any person I ever met with. I am sincerely sorry to see them. I remember an observation of yours made when I went to New York—that the satellites and sycophants which surrounded him had wound up the ceremonials of the Government to a pitch of stateliness which nothing but his personal character could have supported, and which no character after him could ever maintain. It appears now, that even his, will be insufficient to justify them in the appeal of the times to common sense as the arbiter of every thing. Naked he would have been sanctimoniously reverenced, but *enveloped in the rags of royalty, they can hardly be torn off without laceration.* It is the more unfortunate, that *this attack* is placed on popular ground,—on the love of the people to France and its cause, which is universal." †

* Jefferson's Anas, May 23—represents the President as indicating a desire that he would remove Freneau from office. He says—But "I will not do it. His paper has saved our Constitution." The language referred to was in the National Gazette of May 22.—"Thanks to our God, the Sovereignty still resides with the people—and neither proclamation nor Royal *demeanor* and *State* can prevent them from exercising it."

† Jefferson to Madison, June 9, 1793.

Madison replies,* "I regret extremely the position in which the President has been thrown. The unpopular cause of anglomany is openly laying claim to him.—His enemies, masking themselves under the popular cause of France, are playing off most tremendous batteries on him.—The proclamation was, in truth, a most unfortunate error. It wounds the National honor by seeming to disregard the stipulated duties to France; it wounds the popular feelings by a seeming indifference to the cause of liberty; and it seems to violate the forms and spirit of the Constitution, by making the Executive Magistrate, the organ of the disposition, the duty and the interest of the Nation, in relation to war and peace,—subjects appropriated to other departments of the Government." * * * * "If France triumphs, the ill-fated Proclamation will be a mill-stone which will sink any other character, and will force a struggle even on his."

The posthumous papers of Jefferson also show his maleficent venom towards Hamilton;—collecting and recording against him calumnies of which he admits the incredibility; communicating indirectly with the agent † in a nefarious plot against his reputation, and making Lear, the private Secretary of Washington, a tool to inspire him with distrust.‡

The effect of these intrigues was seen in the course taken at this time with respect to an important fiscal operation.

On the third of June, the Secretary of the Treasury addressed a note to the President, in which he mentioned, that "the failure of the late enterprise against the Netherlands might be expected to facilitate the obtain-

* June 19, 1793. † Clingman.

‡ Jefferson's Anas, pages 486, 487, 488, June 7, 12, 1793.

ing loans there for the United States—an expectation countenanced by recent advices; and that the existing instructions to the agent did not extend beyond two millions of florins; that a comprehensive view of the affairs of the United States, in various relations, appeared to him to recommend a still further loan, if obtainable. But that he did not think it advisable to take the step by virtue of the general powers from him, without his special approbation," particularly as the terms would be higher than the previous loans. "The further loan he contemplated would embrace three millions of florins."

Jefferson had recently, in a conversation with Lear, regretted, that there were no means to purchase stocks, on public account.—The accounts of the Sinking fund show that these purchases had been continued up to the moment when this regret was expressed; and that they were then discontinued for the want of funds, which this loan, if made, would supply.

The President consulted the Secretary of State as to the proposed loan.—It had been a theme of much clamor, during the recent inquiry into the conduct of the Treasury Department, that the loans which had been obtained were not applied to the discharge of the debt to France. The impediment to an anticipation of any part of that debt, which was earnestly pressed by Genet at this time, appeared in a Report of the Secretary of the Treasury.*

It was, that "the Government has relied for the means of reimbursing its foreign debt on new loans abroad, but that late events in Europe had thrown a temporary obstacle in the way of these loans producing this inability" —a view which was assented to by Jefferson, in a communication to Genet, transmitting this Report.—Neither

* June 8.

his desire to aid France, nor other real and much stronger motives of public duty weighed with the Secretary of State, when in conflict with an opportunity to embarrass the operations of the Treasury.

He advised the President not to sanction this loan—stating that the object of the twelve Million Loan was to pay the Foreign Debt, of the two Million Loan to purchase the Domestic Debt.—He further advised him to call for statements of the net amount of the Loans already made, and of the foreign debt paid and payable; and also of what was necessary for the Sinking Fund.—He then framed a statement to show, that there was a balance sufficient to meet all payments legally to be made, leaving a surplus; observing, as it was not proposed to pay France in advance "or but little so, any further loan would be lying at dead interest and risk."—If these new moneys were required for the domestic service, he advised the President "that he should answer there was no law authorizing a loan for that purpose."

Acting upon this advice, the President called upon Hamilton to state—"Whether all the moneys borrowed under" the two acts had "been expended on their *respective objects.*"—If not, what the balance was?—"Under which of the two laws" the loan was proposed to be opened.—"If under the one, or the other, or both, what was the balance remaining unborrowed of the two sums allowed to be borrowed," and "to what use" the proposed loan was "to be applied?"

The Secretary of the Treasury forthwith prepared a Report which he submitted to the President on the fifteenth of June.—This document exhibited a statement of the amount of the foreign loans transferred to the United States, and of the sums disbursed and in the course of dis-

bursement, showing the balance free, and subject to application under the laws.

This answered the first inquiry.—As to the second question, he observed,—that "it would be, in his opinion, *expedient for the reason which has governed hitherto—the convenience* of which has been fully experienced—namely, *the power of applying the fund to the purposes of either law, according to circumstances*,—that the proposed loan should be made upon the authority of *both* acts, and *not upon the separate authority of either of them.*"—In reply to the third inquiry, he stated an account, showing a balance unborrowed,* leaving more than sufficient latitude for the proposed loan of three millions in addition to the two millions of florins already authorized, and that, if the instalment and interest which became due to France in the course of the year, were to be wholly paid, it would more than absorb the balance on hand of the Foreign fund—leaving a sum yet to be borrowed for the purchase of the debt, exceeding seventeen hundred thousand Dollars; that the proceeds of the proposed loans would yield an excess† beyond the sum required for the purchase of the debt. But it was possible, that events might render it desirable to the United States to increase the payment to France, so that such excess would not be inconvenient—that another instalment of the Dutch debt would fall due on the first of June seventeen hundred and ninety-four; and, if this loan were authorized, the requisite sum would not be completed much before—that it would have been desirable to have entered into the market for purchases, in force, but the state of European affairs, had prevented loans; and, for a length of time, it was probable the price of stocks would render purchases extremely advantageous. He accom

* $6,101,100.

† $305,103 41.

panied his Report with these observations marked Private—"The enclosed Report will I trust make it appear that there are good reasons relative to the execution of the purposes specified in the laws for making a further loan to the extent proposed.

"But, bottoming the proceeding upon the direct object of the *laws*, as the legal and primary inducement, it appears to me justifiable and wise to embrace, as secondary and collateral motives, the probable operation of the measure on the public interests in ways not immediately indicated in the laws.

"On this ground, I think the legal considerations for a further loan are enforced by the general state of affairs at the present juncture.—Should a general Indian War ensue, and still more should we unfortunately be involved in a European War, nothing could be more convenient than to have anticipated such a resource, which the legislature might apply to the new exigencies, as far as regards the purchase of the debt without any violation of principle.

"In the event of a European war breaking out, it would probably be too late to attempt what beforehand would be practicable without difficulty."

This Report was submitted to Jefferson for his opinion by the President, who remarked, adopting Hamilton's views, that, in addition to the motives assigned for the loan, there were others (if the act of doing it is warranted by law) very cogent in his mind—the uncertain result of the Indian treaty, the invasion of the Southern frontier, and their delicate situation as to some of the belligerent powers.

The necessity of this loan to meet the payments which would become due to France is shown by this Report.

It has been seen, that, in his letter to Genet, Jefferson

approved the reasons given for not anticipating any payments to that Government, but he nevertheless had* urged Washington to cause an advance to be made of the instalments of this year, "as a bagatelle, granted by us so as to please and not to displease that Nation."

Yet, instead of advising the negotiation of this necessary loan, he raised the questions, "how the whole sum borrowed, instead of that transferred to the United States, had been applied? Whether the first instalment to the Bank was a legal charge under those acts or any other?" Whether the sum stated in the recent Report to have been expended in the purchase of the debt, did not appear in the Report of the Commissioners of the Sinking Fund, or some other report to Congress of the last session, as appertaining more properly to the surplus revenue.†

He then assigned his reasons for and his reasons against the loan. The latter were "the possibility that France may continue for some time so unsettled as to render our anticipation of payments hazardous;"—"the risk of losing the capital borrowed" by the contingencies of Europe,—"loss of interest on the dead sum, if the sum be safe—the execution of a power for one object, which was given to be executed for a very different one;—the commitment of the President, on this account, to events, or to the criticisms of those who, though the measure would be perfectly wise, may misjudge it through error or passion;—the apprehension that the head of the Department means to provide idle money to be lodged in the banks ready for the corruption of the next legislature, as it is believed, the late ones were corrupted, by gratifying particular members with vast discounts for objects of speculation. I confess," he wrote, "that the last reasons have the most weight with me."

* June 6. † June 20.

This opposition to the contemplated loan obviously proceeded from a desire to embarrass the operations of the financier, and to instil doubts into the mind of the President, rather than from any public considerations.*

At the very moment of urging his objections to it, Jefferson writes to Madison, "Spain is unquestionably picking a quarrel with us. * * * The inevitableness of war with the Creeks, and the probability, I might say, the certainty of it with Spain (for there is not one of us that doubts it) will certainly occasion the convocation of Congress.

The questions raised by Jefferson were propounded to Hamilton by the President, he stating, that if they were answered in the affirmative, "the difference would be material, and would, with the loan previously authorized and the balance stated to be free, cover all the ascertained demands for that and the succeeding year, exclusive of what might be required for the Sinking fund, and for which he had made no specific appropriation, whereby to form an estimate of the aggregate sum required." †

These inquiries, though the President had a few days before given him the power to make a loan from the Bank of the United States, which had been authorized by law, and had, a month previous,‡ empowered him to pay to the Bank the first instalment, as to which he was now asked—whether it was "a legal charge,"—could leave no doubt on Hamilton's mind of the influence at work.—He felt that he could not with safety be exposed to such misconceptions, and he resolved to resign, as soon

* A note exists among Jefferson's papers entitled, "Conversations with Lear" (Washington's private Secretary) "with regard to the Treasury, Hamilton and Wash.."

† Washington to Hamilton, June 20, 1793. ‡ 13th May.

as a second opportunity to investigate his conduct should have been offered to Congress.

On the twenty-first of June, the day after these questions were put to him, he announced this purpose to the President.

"Sir,—Considerations, relative both to the Public interest and to my own delicacy, have brought me, after mature reflection, to a resolution to resign the office I hold, towards the close of the ensuing session of Congress.

"I postpone the final act to that period—because some propositions remain to be submitted by me to Congress, which are necessary to the full development of my original plan; and as I suppose of some consequence to my reputation; and because, in the second place, I am desirous of giving an opportunity, while I shall be still in office, to the revival and more deliberate prosecution of the inquiry into my conduct which was instituted during the last session. I think it proper to communicate my determination thus early, among other reasons, because it will afford full time to investigate and weigh all the considerations which ought to guide the appointment of my successor."

He had written to Colonel Carrington a confidential letter, enclosing a copy of his replies to the inquiry of the last Congress into his official conduct.

This very intelligent friend answered on the third of July,—"It is true, that suggestions such as you have heard have been thrown out here, and, according to the dispositions of the hearers, have been credited and discredited. This you must expect will be the case until time or events shall take from your persecutors the fabricated plausibilities which it is in their power to present to the ignorant and illiberal part of the community.—Upon the passing off of the next Session of Congress without

direct and ineffectual steps to convict you of the alleged crimes, or upon an attempt to convict and a failure, their influence must sink.—Should your persecutors not come forward at the next session with an impeachment, it is my opinion, that you should explicitly call for one.—It would ensure at once their destruction. Their forbearance would be sufficient with the impartial. Your calling for it, and their declining it, would deprive the malevolent of all pretext for calumny.

"Your determination to continue in office and to stem the storm which envy, malice or ambition can generate against you is that on which, in my opinion, your salvation depends.—Stand fast, and you cannot fail.—Resign under the pressure of the present opposition, and you fall irretrievably.

"You will receive from me nothing but the dictates of candor.—If I know my own heart, I have no attachments in public life but what are sanctified by a thorough conviction that they carry with them the *public good.*

"Upon this ground, I profess to feel a strong attachment to you, and am exceedingly solicitous that you retain the confidence of a Country which has received from the measures you have devised, great good."

On the twenty-fourth of June, Hamilton submitted a second Report to the President containing a full reply to the last inquiries.

It showed the whole amount borrowed and the application of it.—As to the payment to the Bank, that it was properly chargeable to the Foreign fund was to be seen by recurring to the act authorizing it to be made, and which expressly directed it should be made out of the moneys borrowed in pursuance of the fourth section of the act of the fourth of August seventeen hundred and ninety—that the sum stated to have been expended in the

purchase of the debt was equally a charge on the same fund, and appeared "in no report to Congress, at the last session, or at any other time, as appertaining to the Domestic fund or surplus revenue.—On the contrary, that sum is expressly stated to have been issued out of the *foreign* fund in my third letter to the House of Representatives of the thirteenth of February seventeen hundred and ninety-three, which was proved by a certificate of the Register, showing that it was originally carried in the books of the Treasury to the account of the foreign fund."

He then referred to his previous Report to the President, to show the amount * that would remain to be borrowed for the purchases of the Debt—which, if the European War should continue, might, in all probability be advantageously applied to that purpose, as fast as it could be commanded.

At the period of these perplexing difficulties, Hamilton had the happiness to receive a letter from his father in Santa Cruz—accepting an invitation to join him in the United States—"I have now settled," he wrote him, "all my business in this part of the world, with the assistance of my good friend Mr. Donald." * * * * We daily expect news of peace; and when that takes place, provided it is not too late in the season, I will embark in the first vessel that sails for Philadelphia." †

His advanced age and the continuance of the War prevented him from carrying this purpose into effect.

* $1,715,098 11. † Hamilton's Works, v. 567, June 13, 1793.

CHAPTER XCI.

The Government was now compelled to exert its powers in performance of its neutral obligations.

The Court of Admiralty having decided against its jurisdiction over questions of prize between belligerent Nations, the partisans of France were encouraged. There being no judicial authority to interpose, it was by them believed, there would be no further prevention of the course they had resolved to take.

A communication was made by Jefferson to the French Minister of the circumstances which attended the capture of the "William," that she was taken after a pilot was on board, within two miles of the light-house at Cape Henry by the "Genet," fitted out in Charleston.

Upon this statement, he was asked "to be so good as to give orders to the French Consul to take the vessel into his custody, and deliver her to the owners."

A similar request was on the same day, made as to the brigantine "Fanny" captured "within the limits of the protection of the United States," and sent as a prisoner into Philadelphia.

These requests were preferred during the absence of the President, and after an express assent by Genet, to a proposition, that the detention of the captured vessel should be made by the Consul of France. Confiding in

the fulfilment of it, an armed force placed on board the "William" was withdrawn.

A few days after, a case occurred requiring a more decisive interposition. On the twenty-second of June, the warden of Philadelphia reported to the Governor of Pennsylvania that the Brig "Little Sarah," since called the "Petit Democrat," (an English merchant vessel,) mounting from two to four guns, taken off the American coast, by the Ambuscade, was fitting as a privateer.

This information was communicated to the President, who had proceeded to Mount Vernon. Doubts being entertained as to the facts, nothing was done in relation to her. On the sixth of July, full information was obtained, that she was fitted out and intended as a cruiser—that she had augmented her military equipment so as to mount fourteen iron cannon and six swivels, and to be manned by one hundred and twenty men, and was to sail the following day.

Governor Mifflin, in consequence of this information, sent Dallas, the Secretary of State of Pennsylvania, to Genet, to endeavor to prevail upon him to enter into an arrangement for detaining the vessel in port without the necessity of employing, for that purpose, military force. The result of this application is stated in the following letter from Hamilton of the thirteenth of August.*

("Mr. Dallas reported to Governor Mifflin, that Mr. Genet had absolutely refused to do what had been requested of him—that he had been very angry and intemperate, that he had complained of ill treatment from the Government, and had declared that 'he would appeal from the President to the people,') mentioned his expectation of the arrival of three ships of the line;—observing, that he would know how to do justice to his country, or, at

* To Rufus King.

least, he had a frigate at his command, and could easily withdraw himself—said, that he would not advise an attempt to take possession of the Vessel as it would be resisted.

[The refusal was so peremptory, that Governor Mifflin, in consequence of it, ordered out one hundred and twenty men for the purpose of taking possession of the vessel.]

"This conversation between Genet and Dallas was, *in toto*, repeated by Governor Mifflin to General Knox the day following; and, the day after that, the Governor confirmed to me the declaration with regard to appealing to the people: owned that something like the threat to do justice to his country, by means of the ships of the line, was thrown out by Mr. Genet,—but showed an unwillingness to be explicit on this point, objecting to a more particular disclosure,—that it would tend to bring Mr. Dallas into a scrape.

"Mr. Jefferson on Sunday went to Mr. Genet to endeavor to prevail upon him to detain the 'Petit Democrat,' till the President could return and decide upon the case;—but, as Mr. Jefferson afterwards communicated, he absolutely refused to give a promise of the kind, saying only, that she would not probably be ready to depart before the succeeding Wednesday, the day of the President's expected return.

"This however Mr. Jefferson construed into an intimation that she would remain.

"Mr. Jefferson also informed, that Mr. Genet had been very unreasonable and intemperate in his conversation, (though he did not descend to particulars,) and that Dallas had likewise told him (Mr. Jefferson) that Genet had declared he would appeal from the President to the people.*

* Jefferson reports:—"Mr. Dallas told me that on his proposing the subject of detaining the Vessel, he flew into a great passion, talked extravagantly,

"The Petit Democrat, instead of remaining, as Mr. Jefferson had concluded, fell down to Chester, previous to the Wednesday referred to, where she was when the President returned. A letter was written to Mr. Genet by order of the President, informing him that the case of this vessel, among others, was under consideration, and desiring, that she might be detained until he should come to a decision about her, but this requisition was disregarded. She departed in defiance of it.* †

"It is true, as you have heard, that things, if possible, still more insulting have since been done by Mr. Genet, but of this at present no use can be made, no more than of some antecedent transactions, nearly if not quite as exceptionable.—The mass would confound Mr. Genet and his associates; perhaps it may not be long before a promulgation of it will take place.

"I am of opinion with you that, the charge ought to be insisted upon.

and concluded by refusing to order the Vessel to stay.—Mr. D. mentioned some things which he had not said to me, and particularly his declaration, that he would appeal from the President to the People."—(See this in State Department, Washington.)

* The minutes of Jefferson as to this interview with Genet, exhibit his deportment in a light equally offensive, charging the United States with a violation of the treaty with France—that they suffered their flag to be insulted and disregarded by the English—that he had been thwarted and opposed in every thing—avowing his intention to press the President to convene Congress —they being the sovereign. He refused to give an explicit assurance to detain the privateer, stating, though in indefinite terms, that she would not be in readiness.

† On communicating this information, Hamilton remarked:—"I give the detail that you may have the whole subject before you, but I cannot give leave to make use of it all.—All that part" (within brackets) "may be fairly made use of.—This part is so circumstanced as to take away all scruples of personal or official delicacy.—'Tis not so with the rest.—It can therefore only be confidentially disclosed to persons whose discretion may be relied on, and whose knowledge may be useful."

"The case does not require the naming General Knox or myself, and it will therefore not be done. It is to be observed, that the equipments of the Petit Democrat are in the strictest sense an original fitting out. She was before, a merchant vessel.—Here she was converted into a vessel commissioned for war, of considerable force."

Mifflin asked the advice of the Cabinet. A meeting was held on the eighth of July, and the course to be adopted was considered. Hamilton gave the opinion that a battery ought to be erected at Mud Island and mounted, so as to prevent the departure of the vessel, with orders to resort to military coercion;—if she attempted it, to arrest her progress; and that the Americans on board be prosecuted.

In this advice Knox concurred. Hamilton assigned the reasons for this opinion, at much length. He had no doubt upon principle or authority that the permitting, or suffering, or not taking effectual means to prevent the fitting of privateers in our ports was an unequivocal breach of Neutrality.—That the President had, with the unanimous opinion of his Cabinet, signified his disapprobation of it to the ministers of France and England, with assurances, that a repetition of the practice would be effectually prevented;—and, not to take them, would be a departure from the proclamation of neutrality—a contravention of that assurance—implying a want of ability or consistency, and furnishing cause of War—a matter the more serious, because of the non-surrender of the previous prizes to privateers fitted out of Charleston;—that it was a gross outrage upon and undisguised contempt of the Government—aggravated by its being done under its immediate eye, after an expression of its disapprobation, and an expectation given, that the attempt would not be repeated—that such conduct could only be inter-

preted as part of a regular plan to force the United States into the War; and was the more exceptionable, because accompanied with the fallacious disavowal of any such intention; there being satisfactory evidence of a regular system in pursuit of that object to endeavor to control the Government itself, by creating, if possible, a schism between it and the people, and enlisting them on the side of France in opposition to their own constitutional authorities.

One evidence was the late Memorial of Genet, which Hamilton pronounced, "the most offensive paper perhaps that was ever offered by a foreign Minister to a friendly power—with which he resided." * * * "Besides the exhorbitant pretensions, which that paper advances, of a right, *in defiance of the declared sense of the Government*, to fit out armed vessels from the ports of the United States, and even to enlist their own citizens in their own territories, in the service of France, on board these vessels: to hold Courts within their jurisdiction for the condemnation of prizes, unsanctioned by compact, contrary to the rights of neutrality, contrary even to the spirit of the regulations of France for her own Consular establishments, besides the loose and unfounded charges of breach of treaty rudely urged, that paper more than insinuates the imputation on the President of ill-will to France under the instigation of foreign influence, of having gone beyond his duty and his authority, by the decision of matters not within his province—and sufficiently implies an appeal from him to Congress, if not to the people: whose disposition is, at least, indelicately put in contrast with his.

"Language of this sort, if even better founded than it is in the present instance, can never be used by a Diplomatic character, without a culpable violation of deco-

rum.—He has nothing to do but with the Constitutional Organ of the Government for foreign intercourse. In his official communications he ought never to look beyond him;—nor can he do it, without disrespect to the Nation, as well as to the Government.

"The declaration of the Minister of France to Mr. Dallas, Secretary to the Commonwealth of Pennsylvania, as related by him to the Governor of that Commonwealth and to the Secretary of State, is a further confirmation of the same system.—This declaration, among other exceptionable things, expressed—'that he (the Minister of France) would appeal from the President of the United States to the people.'

"It would be a fatal blindness not to perceive the spirit which inspires such language, and an ill-omened passiveness not to resolve to withstand it with energy.

"To refuse an assurance that the privateer would remain until the President's decision, was an additional high-handed contempt of the Government. Not to act with decision would be to prostrate the Government—to sacrifice the dignity and interests of the nation.—Indecision in such a case must necessarily tend to destroy, both at home and abroad, a respect for it—to weaken its arm—to embolden the enterprises of an intriguing and daring foreign agent—to encourage and multiply those who are disposed to adhere factiously to him; and ultimately to put the Country in the condition of being dictated to by that foreign agent, and at war with all the enemies of the nation he represents. Nothing is so dangerous to a Government as to be wanting in self-confidence or self-respect.

"Decision may preserve peace with France herself, for such acts, if unchecked, will render a rupture inevitable. —To prevent her departure" (the vessel's) "was not to

adopt a new principle, but was a consequence of the instructions to the Governors to use military coercion against such acts, if necessary; and was due to the known and declared pleasure of the President, unanimously approved by his Cabinet. Such a relaxation at the seat of Government would leave no solid ground to expect a rigorous execution elsewhere.—The measure is provisional, only to take effect if the vessel attempts to depart—in which case France would have justly nothing to complain of. But, if effectual measures be not taken, other powers will have just cause of complaint; and, if war is to be hazarded, it is certainly our duty to hazard it with that power which by injury and insult forces us to choose between opposite hazards.

"Such a preventive measure it would be a disgrace to the Sovereign to which the offending Vessels belong, and an offence to the Neutral Nation even to make it a subject of complaint."*

* Randall, ii. 162, states in condemnation of this opinion, "that it was distinctly conceded in a letter (dated June 30) from the Secretary of State to the French Minister, that *several* British Vessels had procured arms within American ports, and escaped to sea *without detention*." He quotes as authority the "American State Papers, Vol. i. 159." This very page shows—that "a privateer fitted out by English subjects within the State of Georgia, to cruise against the citizens of France, had been *seized* by the Governor, and such *legal prosecutions* ordered as the case will justify." Jefferson to Genet, June 23, 1793. And then in the very letter referred to by Randall, June 30, Jefferson states, of all the instances complained of, "those from Charleston and Philadelphia have gone off *before it was known* to *the Government*, and the former indeed in the first moments of the War, and *before* preventive measures *could be taken* in so distant a port.—As to the Baltimore case mentioned by Genet;—that "she got off *before* the officer, ordered to examine her" could get on board.—As a justification of the refusal by Jefferson and Randolph to direct "the military coercion" proposed, which he says "could *not with propriety or safety*" be done, he mentions a request of the President to Jefferson, that in cases where the Cabinet was "unanimous,"

Gross, indefensible, and unprovoked, as these insults were, Jefferson *dissented* from the proposed measure.* The grounds of this dissent were, his satisfaction that the vessel would not be ordered to sail—that the erection of a battery might cause her departure, and might produce bloodshed;—that, at the moment twenty French ships of War were expected, which, if they arrived, would partake of the conflict—that thus hostilities would be produced by subordinate officers not chosen by the people, nor clothed with their confidence, and the President be prevented judging whether the buying and carrying away two cannon was a sufficient cause of War between Americans and Frenchmen—that greater violations had been committed by England in her frequent impressments; that when the most ardent affections of the two people had been kindled towards each other;—when the *little subjects of displeasure* which had arisen were the acts of an individual, and had not been deemed of sufficient importance to be carried to his Government, it was inconsistent to bear the grossest injuries from their enemies, and rise at a feather against their friends and benefactors;—that he would not gratify the combination of Kings, with the spectacle of the two only Republics on earth destroying each other for two cannon, nor would he for infinitely greater cause add this country to that combination to turn the scale of the contest, and let it be from our hands that the hopes of man receive the last stab.

during his absence, "they were to act"—if not, their opinions were to be forwarded to him.—This instruction referred to a question *previously* raised by Genet. Randall observes, that it, "of course virtually extended to the action of the Cabinet on still more important questions *subsequently* arising between the same parties." The case of the "Petit Democrat" was a case of flagrant, designed contempt of the previously approved and avowed policy of the Government, requiring immediate prevention. Randall, ii. 161.

* Cabinet Opinion. Hamilton's Works, iv. 440.

The dissent of the Secretary of State prevented any measures being then taken to assert the Neutral character of the Government.

Genet understood well the policy of Jefferson, and on the following day, three letters were received from him by that officer.—The first, after mentioning the capture of the Sarah, stated—"I have had her repaired—I have completed her armament with cannon which I found on board four French vessels, and given the command of her to Captain Amiot, ensign of the 'Republic;' and when ready shall despatch her with a commission of the Executive Council and with my particular instructions.

"I shall confine myself, Sir, to represent to you these facts, which require no discussion on my part; and which cannot create any difficulty on that of your Government. When treaties speak, the Agents of Nations have but to obey."

Again, he informed him, that an English privateer was lying in port, contrary to the treaty; that he had applied to the Governor of the State to remove her, to whose answer, wishing the advice of the President, it was stated, that no advice was necessary, and the Government was called upon to induce the immediate fulfilment of the duties the treaties imposed.

Falling in with the suggestion in Jefferson's Cabinet opinion, Genet, the following day, requested the Secretary of State to communicate to the President the complaints which existed as to the visits by the English of American vessels, and to inform him of the measures taken or proposed to be taken, to cause them to respect the flag of the United States.

"I must observe to you, Sir, that as the English will probably continue to carry off with impunity our citizens

and their property on board of American vessels, without embarrassing themselves with the *philosophical principles proclaimed* by the President of the United States, the engagements we have contracted with you placing us in the most disadvantageous position with respect to our enemies, in depriving us of the privilege of using at every point with regard to them, the right of reprisals, it is as necessary for you as for our interest, that we should agree quickly to take other measures. I expect immediately, Sir, a positive answer from the Federal government on this subject; and I hope that it will comport with the dignity and justice of the American people, who ought not to require, if they are not at present in a situation to compel the English to do justice, whom they have formerly conquered, that we should expose ourselves and them longer by a misplaced compliance to the insults of that Nation, towards whom generous proceedings generally lead only to new outrages."

The President reached the Seat of Government on the eleventh of July, and immediately requested that the Heads of Department would convene at his house at nine in the morning of the following day. Jefferson did not attend. As soon as the President had read the papers relating to the little Democrat, he despatched a messenger to the Secretary of State, requiring his presence; but was informed, that,* "he had retired indisposed to his seat in the Country." Upon hearing this, Washington instantly wrote to him:—

"PHILADELPHIA, July 11, 1793.—Sir: After I had read the papers, which were put into my hands by you—requiring 'instant attention,' and *before* a messenger could reach your office, *you had left town.*

* Marshall, v. 432.

"What is to be done in the case of the *Little Sarah* now at Chester? Is the Minister of the French Republic to set the acts of this Government at defiance *with impunity?* and then threaten the Executive with an appeal to the people? What must the world think of such conduct and of the Government of the United States in submitting to it?

"These are serious questions. Circumstances press the decision, and, as you have had time to consider them (upon me they come unexpectedly) I wish to know your opinion upon them, even before to-morrow, for the vessel may then be gone."

Jefferson replied immediately, stating assurances just given by Genet, that the vessel would not sail before the President's decision; and pleading indisposition as the cause of his absence. The resort to coercion was suspended.

The following day, a Cabinet Council was held, and, in deference to the President's wishes, it was resolved to submit to the Judges of the Supreme Court the pending questions between France and the United States.

Convinced, as Hamilton was, that the Judiciary ought not to consider such questions, unless coming before them in due course of law; and averse to the delegation to others, of what was only within the province of the Executive Department to decide, he objected to the reference. But finally, yielding to the desire of the President, he framed the statement which was submitted to the Judges.

The intention to make this reference was immediately communicated to Genet and to Hammond by Jefferson, who intimated the expectation of the President, that the vessels would be detained by the ministers of *both* powers, "until his ultimate determination should be made known."

He observed to Genet, "You may be assured, sir, that the delay will be as short as possible, and the object of it being to obtain the best advice possible, on the sense of the laws and treaties respecting the several cases, I am persuaded, you will think the delay well compensated." Genet was not influenced by this soothing letter. The privateer, which had dropped down the stream, beyond the reach of any military force, proceeded on her cruise, in contempt of the Government!

At the same time, an English vessel had increased her armament. Hammond requested this might be permitted. It was peremptorily refused, and orders were issued to Mifflin to stop her at the fort! She did not attempt to depart.

The "National Gazette," as to the extending circulation whereof, Jefferson rejoiced, notwithstanding the intemperate conduct of the French Minister, was loud in his defence. His only fault was alleged to be, his having acted "too tamely;"—that "he was too accommodating for the sake of the peace of the United States."

The interference with the Little Sarah was charged to have proceeded from "a British construction of the treaty with France, at the hazard of involving us in a contest with our ally."—"The militia of Philadelphia seem to be made the tools of design and dishonor. They were to hold her in possession for *Britons*, contrary to treaty; and to give mortification and insult to our allies. Will they submit to be the instruments of revenge for Britons? Have they forgotten the circumstances of the late Revolution? Let it not be said of them, that they were the tools of ministerial policy, to harass and distress the saviours of our country. The minister of France, will, I hope, act with firmness and with spirit. The people are his friends, or the friends of France. She will have

nothing to apprehend, *for as yet* the people are the Sovereign of the United States. Too much complacency is an injury done his cause, for as every advantage is already taken of France, not by the people, further condescension must lead to further abuses. If one of the leading features of our Government is pusillanimity, when the British Lion shows his teeth—let France and her minister act as becomes the dignity and justice of their cause, and the honor and faith of America." This exhortation, in a style similar to that of Jefferson, was published two days after the Cabinet had met to decide upon its course.

As the period approached for the trial of Henfield and Singletary, the appeals to public sympathy were more frequent and violent. It was said, "The imprisonment of two Americans who generously abandoned their country to combat the enemies of Liberty under the tri-colored flags of France, is an instance of outrage, which, I hope, will ever remain unparalleled in the annals of freedom." Their arrest was stigmatized as "an act of tyranny—an overstretch of power—unwarranted by the principles of liberty, the rights of freemen, and the laws of nations, contrary to a solemn treaty, and disgraceful to the nation."

On the trial of this cause, all the facts alleged were proved; that Henfield was a citizen of Massachusetts; had entered, as prize-master of the Genet, a French privateer, which sailed from Charleston; had on the voyage captured an English ship, and had brought her into Philadelphia as prize-master.

The Court charged, that he had violated the law of nations and the treaties with the United States, which the Court declared were part of the supreme law of the land; that, the existence of these treaties was notorious; that, although in criminal cases, the jury were judges of the

law and fact, yet they were as much bound by the law as the judges.

The jury, though for some time unable to agree, ultimately found a verdict in favor of the prisoner.

This acquittal was received with loud acclamations of applause; and the verdict was declared to have established the point, that an American citizen might legally enter a French privateer.

The Court were charged with political motives, and were denounced as having taken "the most alarming measures to stifle the calls of justice and to intimidate an American jury into a verdict consonant with the wishes of the Court party or British faction." It was asserted, that, "the impartial trial by jury" was "menaced;" and that it had been an attempt to establish the infamous doctrine, that "American citizens (like some European *subjects*) are *slaves* attached to the soil, and cannot without leave from their *masters* enter into the service of France, or of any other foreign power;" the precise language addressed by Genet to the Secretary of State.

This proceeding was compared to the trial of the seven bishops. "A similar difference," it was said, "then arose between the Bench and the jury. The *people* then, as the people now, exulted in the verdict of acquittal, and our posterity will probably venerate *this*, as we venerate that jury, for adding to the security of the rights and liberties of mankind."

This prosecution having been conducted by the Attorney-General, obloquy was cast by the verdict on the Government for having sought to punish an offence, this jury pronounced, not amenable to the laws, and for having prohibited aids called for by the feelings due to a nation, struggling for its liberties. It is not to be forgotten, that the counsel of the accused were employed and

paid by Genet, and, that, after their acquittal, a sumptuous entertainment was given by him to "Citizen Henfield!"

By the laws of Nations, "foreign recruiters are hanged immediately and very justly, for it is not presumed, that their Sovereign ordered them to commit the crime." "If a common recruiting sergeant, who only acts in the line of his profession, is by the law of Nations punishable with *death* for enlisting men in a foreign Country, what treatment," Vattel asks, "does the Consul of a foreign nation deserve when HE assumes the character of a recruiting officer?"

What would have been the fate of the American Embassador at Paris had he offered the insults received from this foreign incendiary?

In the exposition of the motives for deposing the King given by the National Assembly, a principal one was, "his silence at the conduct of the Princes who called themselves the *allies* of France towards the emigrants, giving them 'not an asylum but permission to arm, to form troops—to *raise* soldiers—to collect provisions for war'—a silence which the National voice broke, demanding preparations for war. "The National Assembly thought it necessary, they avowed, to the safety of France, to compel the Emperor to declare, "whether he wished to be an ally, or an enemy."

Might not the same regard to her safety have drawn the same question upon the United States by Great Britain?

CHAPTER XCII.

THE misguided state of the popular feeling, the false interpretations daily given to the treaty with France, the odium sought to be attached to the Government,* and the personal disrespect manifested towards the President, determined Hamilton to vindicate the measures he had advised, and to rescue this Republic from the dangers that were rushing in upon it. On the twenty-ninth of June, he commenced a series of essays over the signature of "PACIFICUS."

The motive to this publication he states to be "to counteract attempts making very dangerous to the peace, and it is to be feared, not very friendly to the Constitution, of the United States,"—to show, "that the objections which had been raised against the Proclamation of Neutrality had been urged in a spirit of acrimony and invective which demonstrated that more was in view than a free discussion of this important public measure;—that they covered a design of weakening the confidence of the people in the author of the measure, in order to lessen a powerful obstacle to the success of an opposition to the

* Randolph wrote to Washington:—"Fredericksburgh is inflamed by the doctrines and misrepresentations of Col. Taylor of Carolina. It will astonish you to learn the success which has attended his efforts to rouse the cold and substantial planters."

government, adhered to and pursued with persevering industry."

Never were publications more opportune than these Read with avidity, and studied with care, they dispelled every doubt, except in the minds of the devoted partisans of France; and the people were recalled from the delusion to which they had fast been yielding.

They felt the value and importance of the measure that had been adopted, hailed Washington again as their great benefactor, and poured forth addresses to him, expressive of their gratitude and affection.

Nor was the influence of these essays on the public mind alone important, the reaction they produced served to fortify the President in his adherence to the policy Hamilton had early suggested, and to prepare him for the adoption of such further measures as circumstances should indicate.

The source of them was not concealed. This knowledge and the impression they made called forth most vindictive attacks upon the Secretary of the Treasury. "What," it was asked, "are we to expect, when we observe one of the principal characters in our Federal Government attempting to justify, nay applaud, the hellish combination of European tyrants against the infant liberty of France?" Hamilton was denounced, as "the Votary of Despotism,"—"O—Abetter of Carthaginian faith," they exclaimed,—"Blush—can you for a moment suppose that the hearts of the yeomanry of America are become chilled and insensible to the feelings of insulted humanity, like your own? Can you think that gratitude, the most endearing disposition of the human heart is to be argued away by your dry sophistry? Do you suppose the people of the United States will (instigated thereto by duty and interest) prudently thumb over

Vattel and Puffendorff to ascertain the sum and substance of their obligations to their generous brethren—the French. No, no, each individual will lay his hand upon his heart, and find the amount there. He will there find that manly glow, both of gratitude and love, which animated his breast when assisted by this generous people in establishing his own liberty, and shaking off the yoke of British despotism."

Washington was urged to disentangle himself from the counsels of his aristocratic friends.—He was told, that the "enlightened and republican citizens of America will not continue their eulogies longer than they are merited; they will not favor any one with the title of the 'MAN OF THE PEOPLE,' who attempts to impose the unprofitable task of observing a conduct equally 'impartial and friendly' towards the daring enemies of Liberty and her firmest friends."

Soon after, a public meeting of the Militia of Philadelphia was called to celebrate the too long delayed overthrow of the Bastile.—Rounds of cannon were discharged in honor of France; and * sentiments were given, full of invective against Washington and Hamilton.

On this occasion, Governor Mifflin was present; and at the close of the day, the party repaired by invitation to the residence of the Minister of France to renew their revels.

Wherever the French influence could be exerted, there was the scene of greatest violence.—At Charleston,

* "May no *blind* attachment to *men* lead France to the precipice of that tyranny from which they have escaped." "May the sister republics of France and America be as incorporate, as light and heat, and the *man* who endeavors to disunite them be viewed as the ARNOLD of his Country."—"May those who attempt to evade or violate the political obligations and faith of our Country be considered as *Traitors* and consigned to *infamy*."

a meeting was held to celebrate the capture of a British by a French frigate; and a compliment was offered to "the patriotic jury who acquitted Henfield and supported the rights of man."

Genet was not slow to avail himself of these impulses of popular feeling. Resolved to plunge this Nation into the war, he had refused to detain the privateer fitted out in violation of neutrality, and he now caused handbills to be circulated in Philadelphia, inviting all able-bodied seamen "to enlist in the service of the Republic, and engage in the cause of Liberty." Notice was given, that the "Republic had in her service, officers and soldiers from every civilized country in Europe and natives of America, who, in imitation of the heroes from France in the American Revolution, are a glory to themselves, and an honor to the country which gave them birth."

Other causes combined at this time to excite discontent. At a Federal Court held in Richmond, a decision was rendered, the Chief Justice presiding, that British debts were recoverable in Virginia, notwithstanding the acts of her Assembly, prohibiting their recovery, passed prior to the adoption of the Constitution; that the Court could not take notice of a breach of the Treaty of peace in bar of this action, if such breach existed, without a declaration to that effect by Congress; and that the debt, as had been pleaded, was not annulled by the Revolution.

This decision, affecting many persons, in disregard of the claimed supremacy of the laws of Virginia—on a subject which had long engaged the public interest, and had been a principal obstruction to her adoption of the Constitution, was a source of much dissatisfaction.

It was not acquiesced in as a decision in the due course of law; and was among the numerous grounds of clamor,

too readily received in a then influential state, artfully misled to oppose Washington.

Systematic efforts were also made to excite the hostility of Massachusetts against the general government.

The National Bank was violently denounced, and its legislature was urged to prohibit its operation. A project was also formed to tax the National funds in aid of the revenue of that State, which Hamilton had discountenanced.

A question of a more doubtful character was about this time raised there.—It was, whether a State was subject to the suit of an individual of another State.

On the service of the process, Governor Hancock issued a Proclamation convening the Legislature of Massachusetts; and, in the mean time, the opposition prints were loud in their invectives against this "alarming invasion of the Sovereignty of the Commonwealth." It was declared, that it led to a direct consolidation of the Government. Let the freemen of that State "not only hear but see the arm of a tyrannical power uplifted to strike a blow at their liberties, and the hated monster, whether it be the mandate of a federal Court, a *funding system*, or any other demon of despotism, shall vanish before their breath." They were called upon to "draw their swords" against this invasion of their rights.

An additional embarrassment grew out of the captures made by the British Government of enemies' goods on board of neutral vessels—captures authorized by the law of nations, which declared that the goods of a friend found in the vessel of an enemy are free, and that the goods of an enemy found in the vessels of a friend are lawful prize.

It will be recollected, that in the treaty of the United States with France, the principle was embraced, that free ships made free goods, that the armed neutrality had been

formed, to carry this principle into effect, and that the United States, though during the war of the Revolution disposed to enter into that league as a means of obtaining the co-operation of the North of Europe, had, at the instance of Hamilton, refused to commit themselves to engagements which would unavoidably involve them in European controversies.

Meanwhile, the leaders of the opposition did not pause. They declared, "that the cause of France was that of America. It was time to distinguish its friends from its enemies. As to the rumored appeal by Genet from the decisions of the Executive, the people were competent judges of their own interest and obligations. That there can be no danger to them from the free exercise of their judgment on so great and interesting an occasion. Their decision may displease men in high authority, but that will not prove their judgment to have been erroneous."

These United States now presented a most extraordinary spectacle.

In each of their great seaports were seen tri-colored ensigns floating aloft above the American standards.—French ships of battle moored so as to command their feeble batteries.—The American coast lined with privateers plundering their unprotected commerce. Cruisers of their ally roaming on the high seas commissioned to capture every neutral vessel freighted with the great staples of this country to their accustomed marts.—An intestine party banded together and rallying against their own government—tendering homage to a foreign minister, after his known insults to the President—that minister, a youthful, fiery zealot, rebuking Washington as a violator of the laws—dictating to him his duty—appearing to divide with him the affections of the people—the cabinet in discord—the powers of the Chief Magistrate

apparently ready to fall from his hands—Hamilton mourning in silence over his inability to rescue the dignity of the nation, and to shield its chief.

Again, and again, and again, he urged the necessity of prompt and vigorous measures towards the French Minister. His counsels at last prevailed.

Randolph had been absent in Virginia. Great anxiety was felt by Jefferson to secure him entirely to his views. On his departure* he wrote to Madison, urging, that "he may fall into the right hands to dispose him more favorably to a proposition of a treaty between the two republics—knowing that the division on that question is four to one." On the twenty-first of July he again wrote him, "Edmund Randolph is returned. The affair of the loan had been kept suspended, and is now submitted to him. He brings very flattering information of the loyalty of Virginia to the general government, and thinks the whole indisposition there is directed against the Secretary of the Treasury, personally; not against his measures. On the whole he has quieted uneasiness here."

The continued invectives against him combined with the recent menace of the French Minister to appeal to the people had much excited the President. This is seen in a letter to General Henry Lee of the twenty-first of July. Washington observes, "But in what will this abuse terminate? For the result as it respects myself, I care not, for I have a consolation within, that no earthly efforts can deprive me of; and that is, that neither ambitious nor interested motives have influenced my conduct. The arrows of malevolence, therefore, however barbed and well pointed, never can reach the most vulnerable part of me; though whilst I am up as a *mark*, they will be continually aimed.

* June 2.

"The publications in Freneau's and Bache's papers are outrages on common decency, and they progress in that style, in proportion as their pieces are treated with contempt, and are passed by in silence, by those at whom they are aimed. The tendency of them, however, is too obvious to be mistaken by men of cool and dispassionate minds; and, in my opinion, ought to alarm them because it is difficult to prescribe bounds to the effect. The light," he adds, "in which you endeavored to place the views and conduct of this country to Mr. Genet, and the sound policy thereof, as it respected his own, was unquestionably the true one; and such as a man of penetration, *left to himself*, would most cordially have viewed them in, but mum on this head. Time may unfold more than prudence ought to disclose at present."

Four days after, he wrote to Jefferson, "As the letter of the Minister of the Republic of France dated the twenty-second of June lies yet unanswered, and as the official conduct of that gentleman relative to the affairs of this government, will have to undergo a very serious consideration, (so soon as the special Court at which the Attorney-General is now engaged will allow him to attend with convenience) in order to decide upon measures proper to be taken thereupon, it is my desire that *all* the letters to and from that minister may be ready to be laid before me, the heads of departments and the Attorney-General, whom I shall advise with on the occasion, together with the minutes of such official oral communications as you may have had with him on the subject of those letters. And, as the memorials of the British Minister and answers thereto are materially connected therewith, it will be proper, I conceive, to have them ready also."

Three days later,* Genet addressed another letter to the Secretary of State, in which, after speaking of the "spoliation, pillage, and bad treatment exercised by the British in contempt of the laws of the United States, and even under the shadow of the *signs* of their sovereignty," (the American flag) he observed, "on all the seas an audacious piracy pursues even in your vessels, French property, and also that of the Americans, when destined for our ports." "Your political rights are counted for nothing. In vain do the principles of neutrality establish, that friendly vessels make friendly goods. In vain, Sir, does the President of the United States endeavor, by his proclamation, to reclaim the observation of this maxim, in vain does the desire of preserving peace lead to sacrifice the interest of France to that of the moment. In vain, does the thirst of riches preponderate, over honor in the political balance of America. All this management, all this condescension, all this humility end in nothing. Our enemies laugh at it, and the French too confident, are punished for having believed that the American Nation had a flag, that they had some respect for their laws, some conviction of their strength, and entertained some sentiment of dignity. If our Fellow-citizens have been deceived, if you are not in a condition to maintain the sovereignty of your people, speak. We have guaranteed it when slaves. We shall be able to render it formidable, having become freemen."

His reclamations were the more remarkable, as an exemption from the operation of the principle was only the result of treaty, and a modification of the law of nations; inasmuch as with England, Spain, Portugal and Austria, the United States had no treaties; and as the existing state of things would be beneficial to France, while the

* July 25.

United States were in every direction losers by the principle of the treaty with her. Where it worked in their favor, it being to save the goods of their friends; when against them to lose their own—"a principle which would continue to work against them as long as it was only partially established."

The answer of the State Department, written some time after, took this view of the subject, and reminded Genet of his having acquiesced, in a previous instance.

Advices being received of the extension of the payment of a million of florins due to the Dutch Government, Hamilton, the day after, communicated them to the President. He inquired whether this would not reduce the amount of the loan proposed to be made. The Secretary of the Treasury replied, that this extension fulfilled to that extent the object of the loan previously authorized; and "consequently diminished by one million the aggregate sum deemed desirable to be borrowed."

Five days after, on the twenty-seventh of July, Washington wrote to him, that, "as the sum which Hamilton had so stated, had been applied to the purchase of the general debt, and by the act of Congress the sum borrowed for that use had been employed in discharging the instalment due to the Bank, leaving the balance to be borrowed as mentioned in his report; and it being very desirable to embrace the present season for purchasing, he sanctioned a loan to that amount.*"

"As the balance of foreign loans now in the Treasury" was such as he had reported, "and may be absorbed by the instalments" to accrue to France, and as "another instalment on the Dutch loan will fall due on the first of June seventeen hundred and ninety-four, and

* $1,515,098.

will require the sum of a million of florins, he was of opinion that a loan ought to be effected to that amount." He added, referring to the question previously raised, on which of the acts the loan should be made, that "he did not intend to prevent the loans from being carried on *without* distinction in Holland."

Thus, in final and total disregard of all Jefferson's misrepresentations, a complete and explicit sanction was given, though too long deferred, to the statements in Hamilton's late Reports, and to his course of proceeding. The loan he had proposed was authorized. Instructions were consequently given to the American bankers; and it was effected. As Hamilton had apprehended, it was the last foreign loan this government was, during that, and the succeeding administration, able to effect.

It has been seen, that the President, had referred the questions which arose out of the conflicting claims of the belligerents as to the duties of this government, to the Judges of the Supreme Court.

This proposed reference to the Judicial Department, probably made by the President, in concession to Jefferson, was the subject of animadversion by the partisans of France. It was asked, "why appeal to lawyers, when common sense would decide the obligation of the treaties? Why are not the *people* convened, in their representatives? If, instead of *legislating* himself, the President had convened Congress, the people would not have beheld the arbitrary use of power which has excited alarm; and, he would have escaped the censure so generally bestowed. It is suspected, that a certain great man, who directs the political movements of the Executive, although not an officer of the people, is a little timid for fear the *present* Congress should make him pass through a severer ordeal than he has hitherto undergone. This is the true rea-

son why the representatives of the people are not consulted."

The Judicial department felt themselves precluded, upon large considerations, from determining questions of international law, not presented to them in the regular course of the administration of justice.

The responsibility was therefore now necessarily assumed, where Hamilton had, at the first moment, considered that it belonged, of deciding upon a system of rules to govern the conduct of the belligerents and that of the officers of the Revenue. He conferred with the President and prepared this note, which Washington signed, and addressed to his Cabinet. "PHILADELPHIA, July 29th, 1793.—Gentlemen: it will not be amiss, I conceive, at the meeting you are about to have to-day, to consider the expediency of directing the Custom House officers to be attentive to the arming or equipping of vessels, either for offensive or defensive war, in the several ports to which they belong, and to make report thereof, to the Governor or some other proper officer.

"Unless this or some other effectual mode is adopted to check this evil in the first stage of its growth, the Executive of the United States will be incessantly harassed with complaints on this head, and probably when it may be difficult to afford a remedy." *

The contemplated meeting of the Cabinet was delayed, owing to the absence of the Attorney-General, but the President, unwilling longer to wait, on the thirty-first of July convened it for the morrow.

The recent decision as to the loan greatly disappointed the Secretary of State. He may have well expected, were the authority to make it withheld, that it would re-

* Hamilton's Works, iv. 454.

sult in the resignation of Hamilton. The conduct of Genet had alarmed him. Conscious of the guilty confidences between them, he had every thing to fear from the disclosures he might make. Their correspondence would not bear the light. If published, he felt that it would "excite universal indignation." *

Shrinking from the exposure made by Hamilton, nearly a twelvemonth before, Jefferson then intimated to the President an intention to resign, at whose instance, he states, he continued in office, letting out as seen the significant fact, that Washington proposed to him at that time, a foreign mission. Uncertain whether Washington would consent to a re-election, he remained in office.

That chance to his ambition had passed away. He now saw himself encompassed with difficulties. He saw himself compelled to choose between fealty to the government of which he was a member, and fealty to the party in opposition to the measures of the government. In the pressure of the impending emergencies he might be dismissed. One only escape remained. At a moment when

* In a second letter urging a reply to Pacificus, Jefferson wrote to Madison, "Never, in my opinion, was so calamitous an appointment made, as that of the present minister of France here. Hot-headed—all imagination, no judgment—passionate—disrespectful, and even indecent towards the President in his written as well as verbal communications—talking of *appeals from him to Congress*—from *thence to the people*—urging the most unreasonable and *groundless propositions*, and in the most dictatorial style, &c., &c. If *ever it should be necessary to lay his communications before Congress or the public*, they will excite universal indignation. He *renders my position immensely difficult. He does me justice personally;* and giving him time to vent himself and then cool, I am on a footing to advise him freely, and he respects it. But he breaks out again on the very first occasion—so as to show that he is incapable of correcting himself. To complete *our* misfortune, we have no *channel* of *our own* through which we can correct the irritating representations he may make." July 7, 1793.

a statesman true to his own honor and to the honor of his country—would not have harbored such a purpose;—on the day upon which the President, in terms not to be mistaken by him, directed him to meet in a Cabinet Council, Jefferson apprised him of his intention, "at the close of the quarter, the ensuing month of September, to retire to scenes of greater tranquillity from those which," he said, "I am *every day* more and more convinced, that neither my talents, tone of mind, nor time of life fit me." *

* July 31, 1793.

CHAPTER XCIII.

On the first of August the Cabinet met.

Hoping to postpone all action by the Executive, until he had withdrawn from office—thus to avoid present responsibility, and to throw the decision of the great pending questions into the political vortex, Jefferson, as he had before done, with respect to the Proclamation of neutrality, proposed that Congress be convened. The President submitted this proposal with others to the Cabinet.

The Heads of the Departments being assembled with the President, Hamilton, at each successive day of the meeting, exerted his eloquence;—nor did he exert it in vain. "The President," Jefferson writes, "was strongly impressed by the picture drawn by him." On the first day, the correspondence was read. This, it was suggested, should be transmitted to the Executive Council of France, together with a statement to be addressed to the American minister at Paris, to be communicated as the ground of a request, that Genet be recalled; and that the intention to make this request be announced to him. As to the letter asking his recall, Jefferson "expressed a preference of expressing that desire with great delicacy." "He opposed the apprising Genet of this application to his Government, as it would render him extremely active in his plans, and endanger confusion. But

he was overruled by the President and the rest of the Cabinet." The question of the publication of the correspondence, he likewise states, was also agitated, that the President inclined to it, but this he successfully opposed.

The circular to the Collectors was next considered. This paper, the Attorney-General was directed to prepare. He proposed three rules,—one, "that all equipments purely for the accommodation of vessels as merchantmen, be admitted;"—another, "that all equipments doubtful in their nature and applicable, equally to commerce or war be admitted, as producing *too many minutiæ*;"—a third, "that all equipments *solely* adapted to military objects be prohibited."

On the first submission of them, Hamilton proposed a rule meeting expressly the chief subject of controversy, "That the *original arming and equipping* of vessels for military service, offensive or defensive, in the ports of the United States, be considered as prohibited to all;" a *second*, "that vessels armed *before* coming into our ports, shall *not* be permitted to *augment* their military equipments in the ports of the United States; but may repair or replace any military equipments which they had when they began their voyage for the United States; that this shall be the law with the exception of privateers of the parties opposed to France, who shall not refit or repair:" and a *third*, "that for convenience, vessels armed and commissioned, before they come into our ports, not having infringed certain prescribed rules, may engage their own citizens, not being inhabitants of the United States, except privateers of the powers at war with France, and except those vessels which have made a prize, &c." The second rule proposed by him was sustained only by himself, the first and third were agreed to.

The opinion of the Secretary of State was in these words: "I concur in the rules proposed by the Attorney-General as far as respects materials or means of annoyance furnished by us; and I should be for an additional rule, that as to means or materials brought into this country and belonging to themselves, they are free to use them."

From this it appears, that Jefferson did not object to an original arming or equipment in the ports of the United States, provided the means or materials were French; thus sanctioning the very case which had occurred and had been defended by Genet, the allegation having been made by him, that the cannon which he mounted on the "Petit Democrat" were taken from on board French vessels.*

These rules were deemed by Hamilton much too loose. He accordingly drew others, and by comparing those contained in his circular with the original drafts, it appears, while the second and sixth were proposed by the Attorney-General, the rest were from his pen. They were, finally, on the third of August, concurred in by all the members of the Cabinet, and were approved by the President on the fourth.

It is not a little remarkable, that, instead of being satisfied with the specific exception of the cases provided for in the treaties with France, Prussia, and the United Netherlands, Jefferson on the final discussion proposed the addition of this general clause, "but it is not meant that these rules shall contravene, as of right they cannot, the provisions of the treaties of the United States and particularly the 17th, 18th, 19th, and 22d articles of that with

* "I have completed her armament with cannon which I found on board four French vessels." St. P. v. i. 163.—F. R.

France, the 16th, 17th, and 22d of that with the United Netherlands, and the 9th, 18th, and 19th of that with Russia."

The great embarrassment of the Government grew out of the extravagant constructions put upon these treaties by the French minister. The effect of a clause of this nature evidently would be to leave open the whole subject of controversy, not, as was the object of the Rules, to define and prescribe, by the interpretation of the Government of the United States, its neutral rights and neutral obligations.

No prohibition was made against the sale of French prizes in the American ports. This measure had in itself an unneutral aspect. It was permitting to one party a military advantage which the treaty with France prohibited to others, but it was an indulgence granted, not on the ground of any treaty obligation, but because there was no law to prohibit it. These Rules were essentially derived from the treaties of the United States with France and Sweden, and were embraced in that last contracted between England and France. They are thus particularly referred to for the purpose of marking the conduct of the respective members of the Cabinet, and of showing the solicitude of Hamilton that the Government should strictly fulfil its pledge of impartiality. The objection of Jefferson is the more remarkable, when it is recollected, that, in his official letter, of the twentieth of April preceding, to the American Ambassador at London, he had given this pledge to England, and made it the basis of a requisition upon her to observe a like line of policy towards the United States. The day after the rules were adopted, Hamilton addressed a circular of "Instructions to the officers of the customs," prefixing some important guards—to prevent a violation of the treaty with France; also providing that no armed

vessel originally fitted out in any part of the United States, by either of the parties at war, is henceforth to have an asylum within the United States; and that the purchase, by way of *merchandise*, of contraband articles, was free to all the parties at war; but, if carried by our own citizens to either of such parties, to be left to the penalties of the laws of war. Notice was required of the case of any citizen found in the service of either of the belligerents. Clearances were to be refused to vessels contravening these instructions.

A circular was soon after addressed to the Merchants, assuring them, that due attention would be paid to any injuries they might suffer, and that "proper proceedings would be adopted for their relief." *

The question of convening Congress at an extra session was also considered. The reasons assigned by the President in favor of it, were; "the verdict of the jury in the case of Henfield—the decision to recall the French Minister, the situation of Indian affairs, and the general complexion of public matters." This question was renewed the following day, the President observing, that the late decree of the Convention authorizing Neutral vessels laden with provisions to be sent into their ports, added, "another motive to the adoption of the measure." † Hamilton had previously, he now again dissuaded it. Jefferson approved it.‡

Among other causes of dissatisfaction with Washington enumerated by Genet § to the Secretary of State, he wrote, "He has deferred, in spite of my repeated insinua-

* August 23.

† Washington's Writings, x. 364. Aug. 4, 1793.

‡ Jefferson's Works, iv. 489, 491.

§ "Genet had secret or avowed adherents in several of the States, and *even in Congress*." Marbois' History of Louisiana, p. 155.

tions, to convoke Congress immediately, in order to take the true sentiments of the people to fix the political system of the United States, and to decide whether they will break, suspend, or tighten their bonds with France—an *honest* measure which would have avoided to the government much contradiction and subterfuge." After such an attempt to control the President, Hamilton felt, strong as was Washington's inclination, unless prompted by great reasons of State, that it was a measure not to be resorted to. It was agreed that each member of the Cabinet should state his opinions in writing.

Randolph reviewed the several reasons assigned by the President, and thought there was no sufficient ground for calling an extra session. "Though," he said, "it would be a great relief to the President"—not more than a month would be gained. "Will it not be said, that the President has gone as far and as long as he could without Congress, and finding his career by himself closed, or anxious to save appearances, he is *now* at length desirous of sharing the burden with them?" He disapproved it.

Knox thought the measure would excite anxiety and alarm. "Most of the cases which had occurred have been the proper business of the Executive, and the opinions of the Judiciary seem to indicate that all the measures hitherto adopted for the preservation of the peace, have been proper and wise.", His powers were adequate to any probable emergency. "The Southern Indians might require the early attention of Congress," but little would be gained by the anticipation of a month.

Jefferson advised it, "Because the protection of the Southern frontier served to render indispensable a War with the Creeks which cannot be declared or provided for but by the legislature—because several legislative provisions are wanting to enable the government to steer

steadily through the difficulties daily produced by the war in Europe; and to prevent our being involved in it by the incidents and perplexities to which it is constantly giving birth;" and for the reason—"if war is to ensue, a month's earlier meeting will place them a month forwarder in their provisions for it."

Hamilton took a different view.—He gave his opinion in writing. "I doubt the expediency of specially convening Congress at this time, for the following reasons: "The Constitution," he said, "required that an extraordinary occasion should exist as the basis of the exercise of the power of the President to convene the Legislature." Nothing of sufficient force to require it had occurred which did not exist months ago. "The war in Europe existed then as it does now. Indian affairs are not understood to be at this time in a worse, if in so bad a posture, as they have been for a considerable time past." The recall of Genet could only justify the measure on the supposition that it would produce a war with France. This was a consequence not to be looked for, and "the prudence was very questionable of manifesting by any public act, that the Executive did look for it." As to the verdict in the case of Henfield, "it seems not of sufficient weight." "The Judges who tried the cause were united in their opinion of the law. The Jury who tried the cause are universally believed in this City to have been selected for the purpose of acquittal." "The supposed decree of the Convention is an important consideration, but is not yet ascertained to be authentic; and it will deserve examination, whether the Executive would not itself be competent to whatever it would be prudent to do in the case." "Taking the step now, when no new reasons existed for it, would expose the Executive, for not having previously done it, to much criticism and animadversion."

"The meeting would only be accelerated a month—the public anxiety and alarm would be in proportion to the shortness of the time."—"It would be construed into an indication that something very extraordinary and urgent had occurred, and abroad, as well as at home, much speculation would be excited." "This consideration, which was always a weighty objection to anticipating the meeting of Congress by a special call, has now great additional force for the reason just assigned." * It was resolved not to convene it.

Jefferson relates that he "was for it," yet, as recently as the tenth of July previous, not one month past, he stated to Genet, that, "All the questions, which had arisen between him and us, belonged to the Executive department, and if Congress were sitting, could not be carried to them, nor would they take notice of them." † ‡

How earnest the desire to weaken Hamilton's influence at this moment was, may be inferred from an artifice now resorted to.

A clerk, who had been dismissed the Treasury Department, and who, subsequently was discovered to have been in communication with Jefferson, waited on the President on the third of August—the day these important decisions were to be made, and charged Hamilton with a violation of his official trust. It failed of its in-

* Hamilton's Works, iv. 461.

† Washington's Writings, x. 537. July 10, 1793. "Minutes of a conversation," between Jefferson and Genet.

‡ Jefferson to Madison, Aug. 11, 1793. "Congress will not meet till the legal day. It was referred to a meeting at my office to consider and advise on it. I was for calling them. Knox against it. *Hamilton said his judgment was against it, but he would join any two who would concur so as to make a majority either way!!*" "Randolph was pointedly against it. We agreed to give our opinions separately and the President was in his own judgment for calling them, he acquiesced in the majority."

tended purpose. Washington immediately communicated the charge to Hamilton, * which was instantly refuted. On the same day, Jefferson wrote to Madison: "We have decided unanimously to require the recall of Genet. He will sink the Republican interest if they do not abandon him. Hamilton pressed eagerly an appeal to the people. Its consequences you will readily see, but I hope we shall prevent it, though the President is inclined to it. The loan is agreed to to the full extent. * * * I will hereafter note your several requisitions." He represents the President as being uneasy at the language of Pacificus, and adds, "as the author is universally known, and, I believe, not even denied by himself, it is foreseen, that the vulnerable points well struck, will *stab the party vitally*."

Hamilton felt that the honor of the United States demanded the reparation, too long withheld, of a palpable wrong, and while providing against future infractions of neutrality, that indemnity ought to be made for the past.

While the rules for the government of the officers of the revenue were under discussion in the Cabinet, he moved, that the question as to the obligation of restoring the prizes brought into their ports, made by privateers, armed and manned in those ports, be reconsidered. It was discussed. Jefferson and Randolph were driven from the ground they had taken. Again the opinion of Hamilton prevailed;—another triumph of National Justice over foreign predilections. The principle being admitted, Hamilton insisted, that the operation of this decision must be retrospective, so as to embrace every instance that had occurred. It was so decided, and he drew up the following minute which was concurred in:

* Hamilton's Works, iv. 455, August 3.

"That the Minister of the French Republic be informed, that the President considers the United States as bound, pursuant to positive assurances, given in conformity to the laws of neutrality, to effectuate the restoration of, or to make compensation for prizes, which shall have been made of any of the parties at war with France, subsequent to the fifth day of June last, by privateers fitted out of their ports.

"That it is consequently expected, that he will cause restitution to be made of all prizes taken and brought into our ports, subsequent to the above mentioned day, by such privateers; in defect of which, the President considers it as incumbent upon the United States to indemnify the owners of those prizes; the indemnification to be reimbursed by the French nation.

"That besides taking efficacious measures to prevent the future fitting out of privateers in the ports of the United States, they will not give asylum therein to any, which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall be hereafter brought within their ports, by any of the said privateers.

"That instructions be sent to the respective Governors in conformity to the above communication.

"The foregoing having been duly considered, and being *now* * unanimously approved, they are submitted to the President of the United States." †

* August 15th, 1793.

† Randall in a note, ii. 139, states—"Hamilton himself *afterwards yielded* to the *force* of *Jefferson's positions* on the subject of *restoring* the prizes,"—and quotes, in confirmation, Hamilton's Works, v. 569. By reference to this page, it will be seen that Hamilton merely *mentions* a legal opinion, that the District and Admiralty Court would "take cognizance" of the validity of a capture or "seizure within the jurisdiction" of the United States, because it was "an infraction of the jurisdiction of a neutral power"—a reasoning which

A letter from Jefferson to Madison, written three days after this decision, gives the results of this Council; rejoices at an attack upon Hamilton, which he ascribes to Madison's pen, and states, "had been published by Freneau from the Virginia papers." He mentions the fact, that in the letter asking the recall of Genet, the Secretary of the Treasury "thought expressions of friendship to France suited the occasion." *He enclosed to him a cabinet paper*, which he observes, "had only been read for the first time, as yet."

Jefferson was again compelled to announce to Genet, the rejection of the policy he had advocated in the Cabinet. The case was the more mortifying, inasmuch as the letter addressed by him to Genet was draughted by Hamilton. It embodied the language of the preceding Cabinet decision, and added, "It would have been but a proper respect to the authority of the country, had that been consulted before the armaments were undertaken. It would have been satisfactory, however, if their sense of them when declared, had been duly acquiesced in. Reparation for the injuries to which the United States have been made so involuntarily instrumental, is all which now remains, and in this your compliance cannot but be expected."

It had also been decided, that a vindicatory letter should be addressed to the American Ambassador at Paris, stating the points of difference which had arisen with Genet, and desiring his recall. A "rough draft" of this letter "prepared by the Secretary of State" was submitted to the Cabinet on the *fifteenth* of August. On the *twentieth*, it was "read and corrected by paragraphs,

he says "has much force."—The letter, quoted by Randall, does *not touch the question* of the obligation to "restore the prizes."

and finally agreed to, and on the *twenty-third* of August, it was directed to bear date with that of the last document which was to accompany it—the sixteenth of August.

There was now no retreat for Jefferson. A decision which he saw was irrevocable was made. Seeing that Genet could be no longer sustained, on the twenty-fifth of August the day of this decision, he wrote to Madison. "His object was evidently, contrary to his professions, to FORCE US INTO THE WAR. I am not sure, whether some of the more furious Republicans may not schismatize with him." A fuller admission of the wisdom of the policy Hamilton had so steadily advocated, could not be made.

It has been stated, that "the publication of this correspondence with Genet, dissipated much of the prejudice which had been excited against Jefferson. The opinions embraced by the Federalists on those points of difference which had arisen between the two republics had in that correspondence been maintained with great ability. To what extent the tone of these letters was influenced by Hamilton has been partially developed. The same influence was exerted as to this important State paper. Two papers in relation to it exist in Hamilton's autograph —one found among his papers after his decease, the other is now in the State department, and is entitled in *Jefferson's handwriting* "Hamilton's plan of remonstrance against Genet when it was concluded to write to Gouverneur Morris—as was done. August 16, 1793."* Collated extracts also exist in his hand of several of the offensive paragraphs in Genet's letters, together with successive minutes of verbal alterations, made in the Cabi-

* Randall, ii. 181, states—"But the latter," (Jefferson) "*does not mention this paper*, and therefore we are left to conclude it was not presented."

het. On comparing the letter as finally adopted with these papers,—with the essays of "No Jacobin" by Hamilton, and with his Cabinet opinions on the several questions as they arose,—'tis obvious, that the body of the document is from his pen.*

After recapitulating the points in difference, stating the numerous violations of the neutral rights of the United States—whether as regarded the laws of nations, or the treaties with France, or her own long established principles, and vindicating the positions taken as to these violations, the letter then proceeds, "Mr. Genet, not content with using our force, whether we will or not, in a military line, against nations with whom we are at peace, undertakes also to direct the civil government and particularly the executive and legislative bodies, to pronounce what powers may, or may not be exercised by the one or the other.

"Thus in his letter of the eighth of June, he promises to respect the political opinions of the President, till the Representatives should have confirmed or rejected them; as if the President had undertaken to decide what belonged to the decision of Congress. In his letter of June the fourteenth, he says more openly, that the President ought not to have taken upon himself to decide on the subject of the letter, but that it was of importance enough to have consulted Congress thereon; and in that of June twenty-second, he tells the President in direct terms, that Congress ought already to have been occupied on certain questions which he had been too hasty in deciding—

* "It lacks," Randall says, "the *sonorous roll* of the Spanish despatches in June, and of many of the author's" (Jefferson's) "previous productions." He adds in a note—"Judge Marshall styles it an 'able diplomatic performance, though he does not specially name the authorship." The solution is, that Marshall had before him a minute of the Cabinet proceedings on this letter.

thus making *himself*, and not the President, the judge of the powers assigned by the Constitution to the Executive; and dictating to him the occasion, when he should exercise the power of convening Congress, at an earlier day than their own act had prescribed."

After a brief summary of the offensive language in which Genet had indulged, a rapid sketch is drawn of the conduct of the United States. "Recurring then only to recent things, after so afflicting a libel, we recollect with satisfaction, that in the course of two years, by unceasing exertions we paid up seven years' arrearages and instalments of our debt to France, which the inefficiency of our first form of government had suffered to be accumulating; that pressing on still to the entire fulfilment of our engagements, we have facilitated to Mr. Genet the effect of instalments of the present year to enable him to send relief to his fellow-citizens in France, threatened with famine; that in the first moment of the insurrection which threatened the colony of St. Domingo, we stepped forward to their relief with arms and money, taking freely to ourselves the risk of an unauthorized aid, when delay would have been denial; that we have received, according to our best abilities, the wretched fugitives from the catastrophe of the principal town of that Colony, who escaping from the swords and flames of civil war, threw themselves on us naked and houseless, without food or friends, money or other means, their faculties lost and absorbed in the depth of their distresses; that the exclusive admission to sell here the prizes made by France on her enemies, in the present war, though unstipulated in our treaties and unfounded in her own practice, or in that of other nations, as we believe; the spirit manifested by the late grand jury in their proceedings against those who have aided the enemies of France with arms and imple-

ments of war; the expressions of attachment to his Nation, with which Mr. Genet was welcomed on his arrival and journey from South to North; and our long forbearance under his gross usurpations and outrages of the laws and authority of our Country, do not bespeak the partialities intimated in his letters. And for these things, he rewards us by endeavors to excite discord and distrust between our citizens and those whom they have intrusted with their government: between the different members of our government, between our nation and his." "If," it is remarked, "our citizens have not already been shedding each other's blood, it is not owing to the moderation of Mr. Genet, but to the forbearance of the Government."

Under what contortions, with what dire hate, Jefferson was compelled by the overruling influence of Hamilton to this exposure of this foreign agent, whom he had himself stimulated, in aid of his intrigues, against his own government, may now be conceived.

From the time of the arrival of Genet up to the moment when the President urged his being recalled, the press of Freneau, his confidential clerk, who had translated the letters of Genet, teemed with vituperations of Washington, for the act of issuing the Proclamation of Neutrality, and with encouragements to the French envoy to proceed in his frenzied career.

Yet to Jefferson, who had refused to comply with the wishes of the President, by removing this Clerk, who thus abetted this agent, was ascribed and by him has been enjoyed, the merit of this exposure of that agent.

His true position is more accurately shown in the language of a confidential friend of Hamilton, published soon after, to which Jefferson adverted and which *was not controverted by him*;—that this letter and the other communi-

cations then signed by him were the *ostensible* writings of the *mere organ* of the Executive will.* †

In a subsequent letter, France was informed by him, as directed, that the negotiation, authorized by a decree of the National Convention on "liberal principles" had been deferred until the meeting of the Senate, and that "the President will meet them with the most friendly dispositions on the grounds of the treaty proposed by them, as soon as he can do it in the forms of the Constitution, suggesting that the powers of Genet be renewed to his successor."

* "Phocion" by ("Phocion") Smith as Jefferson designates him.—Anas. Jefferson's Works. Wm. Smith representing South Carolina in Congress.

† In 1794 Edmund Randolph, writing to Washington, says, that Bache (of the Aurora) assigned the cause of Jefferson's resignation to be, that *he was compelled to sign despatches which he disapproved.*

CHAPTER XCIV.

JEFFERSON being now brought under full commitment as to the great questions of public policy, the President saw the importance of retaining him a short time longer in an office, where he would be controlled; and of making him the public and official advocate of the policy to which he was forced to subscribe. On the sixth of August, the day after the great pending questions before the Cabinet were decided, Washington had an interview with him, and *as Jefferson states*, requested him not to retire before the end of another quarter (the last of December), as "it would get us through the difficulties of this year; and he was satisfied, that the affairs of Europe would be settled this campaign, for that France would be overwhelmed by it, or the confederacy would give up the contest. By that time, too, Congress will have manifested its character and views." Anxious as Jefferson was to escape, he could not now retreat without the appearance of being dismissed; and on the eleventh of August he announced to the President, that he would remain until the end of the quarter. The President in the same views which had dictated his request, stated to him, his desire that his continuance in office could have been through the whole of the ensuing Session of Congress, "for many, very many weighty reasons, which present themselves to my mind, one of which,

and not the least, is, that, in my judgment, the affairs of this Country, as they relate to foreign powers, Indian disturbances, and internal policy, will have taken a more decisive, and, I hope, agreeable form, than they now bear before that time, when, perhaps, other public servants, might also indulge in retirement." He wished his absence from the seat of government in autumn, as short as he could make it.

The motives to his retirement from office are distinctly confessed by Jefferson, as will be seen in a letter written the day he left the seat of government for Virginia.

The day following the appearance of the first number of "Pacificus," Jefferson wrote to Madison: "You will readily know the pen. I know it the more readily, because it is an amplification only of the topics urged in discussing the question when first proposed—the right of the *Executive* to declare, that we are *not bound to execute* the guarantee was then advanced by him and denied by me. No other opinion expressed on it. In this paper he repeats it and even considers the proclamation as such a declaration." On the seventh of July, he again wrote to him, "You will see in these, Colonel Hamilton's second and third Pacificus. Nobody answers him, and his doctrine will therefore be taken for confessed. For God's sake, My dear Sir, take up your pen. Select the most striking heresies, and cut him to pieces in the face of the public.—There is nobody else who can and will enter the lists with him."

Madison replies, "Do you know what is the idea of France with regard to the defensive quality of the guarantee, and of the criterion between offensive and defensive war, which I find differently defined by different jurists. Also what is the *idea of the President* on these points. I *could lay my course* with more advantage through some

other points of the subject, if I could also know how far he considers the Proclamation as expressing a Neutrality, in the sense given to that term, or how far he approves the vindication of it on that ground." In this reply, Madison is read.

Jefferson now saw the changed direction of the public mind, and knew that the decisions of the Cabinet were fixed. This subtle politician was quick to discern the dangers of his position.

He resolved to double, and thus to escape the perils with which he was pursued. On the day* when he decided to remain in office, he replied to Madison, showing the real estimation in which he held him.

"I write a second letter to-day, because, going by a private conveyance, I can venture in it a paper which never could have been hazarded by the post. Timely information of its contents (which must be sacredly kept to yourself, unless you have an opportunity of communicating them to Monroe) may enable you to shape your plan for the state of things which is actually to take place." This allusion probably is to Hamilton's contemplated retirement from the Cabinet. "It would be," he proceeds, "the moment for dividing the Treasury between two equal chiefs of the customs and Internal Taxes, if the Senate were not so unsound. A declaration of the true sense of the Constitution on the question of the bank, will suffice to divorce that from the government." * * *

He then adds contemptuously—in special answer to Madison's recent letter—"With respect to the proclamation of Neutrality, as the facts it declared were true, and the desire of neutrality is universal, it would place the Republicans in a very unfavorable point of view with the people to

* August 11, 1793.

be cavilling about *small points of propriety*, and would betray a wish to find fault with the President in an instance where he will be approved by the great body of the people, who consider the substance of the measure only, and not the *smaller criticisms** to which it is liable. The conduct of Genet, too, is transpiring and exciting the indignation it is calculated to excite. The towns are beginning generally to make known their disapprobation of any such opposition to their government by a foreigner, and declaring their firm adherence to the President; and the Proclamation is made the ground-work of these declarations. In New York, while Genet was there, the vote of a full meeting of all classes was nine out of ten against him —that is, for the Proclamation. We are told that the cortége which was collected to receive him (except the Committee) consisted of boys and negroes. All the towns northwardly are about to express their adherence to the proclamation, and chiefly with a view to manifest their disapprobation of Genet's conduct. Even Philadelphia, enthusiastic for him before his proceedings were known, is going over from him entirely; and, if its popular leaders have not the good sense to go over with them, they will go without them, and be thus transferred to the other party.—So in Congress. I believe it will be true wisdom in the Republican party to approve unequivocally of a state of Neutrality; to avoid *little cavils* about *who should declare it;* to abandon Genet entirely with expressions of strong friendship and adherence to his nation, and confidence that he has acted against their sense. In this way, we shall keep the people on our side by *keeping ourselves in the right.* I have been myself under a cruel dilemma with him. I adhered to him as long as I could

* See—Essays of "Helvidius"—by Madison.

have a hope of getting him right, because I knew what weight we should derive to our side by keeping in it the love of the people for the French cause and nation, and how important it was to ward off from that cause and nation any just grounds of alienation. Finding at length, that the man was incorrigible, I saw the necessity of quitting a wreck which would but sink all who should cling to it. It is determined to insist on his recall, and I am preparing a statement of his conduct to be laid before the Executive Council. Hamilton and Knox have pressed an appeal to the people with an eagerness I never before saw in them. They made the establishment of the democratic society here the ground for sounding the alarm, that this society (which they considered as the *anti-federal and discontented faction*) was put into motion by Genet, and would, by their corresponding societies in all the States, draw the mass of the people, by dint of misinformation, into their vortex, and overset the government.

"The President was strongly impressed by this picture drawn by Hamilton, in three speeches of three quarters of an hour length, each. I opposed it totally, told the President plainly in their presence, that the intention was to dismount him from being the head of the nation, and make him the head of a party; that this would be the effect of making him, in an appeal to the people, declare war against the Republican party. Randolph, according to his half-way system between wrong and right, urged the *putting off* the appeal. The President came into his idea, or rather concluded, that the question on it might be put off indefinitely to be governed by events. If the demonstrations of popular adherence to him become as general, and as warm as *I believe they will*, I think he will never again bring on the question; if there is an appear-

ance of their supporting Genet, he will probably make the appeal. I can by this confidential conveyance speak more freely of Randolph. He is the poorest creature I ever saw, having no color of his own, and reflecting that nearest to him.—When he is with me, he is a Whig.—When with Hamilton, he is a Tory. When he is with the President, he is what he thinks will please him. The last is his strongest hue. Though the second tinges him very strongly, the first is what, I think, he would prefer in his heart if he were in the woods where he could see nobody, or in a society of all Whigs. You will mark an expression in the enclosed paper with respect to him. It has in some degree lessened my apprehensions of the estimation in which the President held him. Still it is not the less true, that his opinion always makes the majority, and that the President acquiesces *always* in the majority, consequently that the government is now solely directed by him. As he is not yet openly thrown off by the Whig party, it gives to the public a false security, that fair play is given to the Whigism of the President, by an equal division of Whig and Tory among his counsellors. I have kept on terms of strict friendship with him hitherto, that I might make some good out of him, and because he has really some good private qualities, but *he is in a station infinitely too important for his understanding*, his *firmness*, or *his circumstances*. I mentioned to you, that we had convened the judges to consult them on the questions which have arisen on the law of nations. They declined being consulted. In England, you know, such questions are referred regularly to the judge of Admiralty. I asked E. R. (Edmund Randolph) if we could not prepare a bill for Congress, to appoint a board or some other body of advice for the Executive on such questions. He said, he should propose to annex it to his office. In plain lan-

guage, this would be to make him the sole arbiter of the line of conduct for the United States towards foreign nations."

After this project to defeat the influence of Hamilton as a publicist, and to reduce the President and the Cabinet to a cipher in the execution of the most important of his duties, by placing him in the leading-strings of a congressional "board or some other body of advice," Jefferson pursues Madison's characteristic and ever governing inquiry, "You ask the *sense* of *France* with regard to the guarantee. *I know it no otherwise than from Genet.*—His doctrine is, that without waiting to be called on, without waiting till the Islands were attacked, the moment France was engaged in war, it was our duty to fly to arms as a nation, and the duty of every one to do it as an individual. He insisted much on Henfield's Counsel (who were engaged and *paid* by him) defending Henfield on this ground, but they had more sense."

"P. S. The President is extremely anxious to know your sentiments on the Proclamation. He has asked me several times. I tell him you are so absorbed in farming, that you write to me always about ploughs, relations, &c.!!"

This letter is pregnant with matter for careful study and recollection.

Another humiliation awaited Jefferson. He was compelled to announce to the British envoy, in explicit terms, the late decisions of the Cabinet as to the restitution, and, where prevented, compensation for prizes. "Losses by detention, waste, spoliation, were to be valued—and as to all these injuries, he was requested to substantiate the facts." *

* Jefferson to Hammond, Sept. 5, 1793. Jefferson's Works, iii. 285.

The determined character which the policy of the government had now assumed, was by the opposition wholly ascribed to Hamilton. Private intrigues having failed to withdraw from him the confidence of the President, the public attacks upon him became the more frequent and envenomed. In the attempt to create a breach between them, neither the character nor station of Washington were a shield. "Come forward," it was said to the President, urging him to issue a proclamation in their views—"Come forward, Sir. For *once* compose your own proclamation. When we find the name of General Washington to the reservations of a special pleader, we know his prudence has been surprised, and the work is disrespected, because it is discovered."

Although it was well known that these attacks proceeded from persons in familiar intercourse with Genet, it was not supposed that either he or any of his Diplomatic family would venture upon anonymous charges against members of the administration. Such however proved to be the fact. It will be recollected, that the Viscount De Noailles, a relative of La Fayette, was a comrade with Hamilton during, and his correspondent after, the Revolution. This officer had escaped the violences of France, and on his arrival here was welcomed with the kindness becoming his situation by Hamilton and Knox. Washington felt himself obliged to observe great caution.*

A tale was immediately circulated, that he was received privately, as an agent of the Regent of France. This act of hospitality was denounced by Genet, and a

* Hamilton's Works, iv. W. to H. 392. "Every movement," he says, "is watched."

close observation instituted on his intercourse with the Secretary of the Treasury and of War.

Some time after, an article was inserted in the paper of Bache impeaching Hamilton as an unfit person to be at the head of the Finances, because of his association with Noailles; and charging Knox with permitting that officer to declare with exultation in his presence, that "St. Domingo was ruined." These matters of themselves were of no moment, but upon a demand of the author by Noailles, the attack was avowed to proceed from the Secretary of Genet. Ere long a doggrel was published against Washington, of which, it is stated, from various circumstances, there were strong grounds for believing the French Minister was the author.

The threat made to Dallas of appealing to the people was now carried into effect. An article, surpassing in violence, all those which had preceded it, appeared in the National Gazette, directed generally against the Government, but especially against Hamilton. This was followed by another, in the paper of Bache under the title of "A Jacobin," also believed to be from the pen of Genet, assailing the President, for a breach of treaty in his conduct as to the French privateers, and asserting that it was no longer possible to doubt, that the intention of the Executive was to look upon the treaty with France as a nullity, and that the government was prepared to join the league of tyrants against her.

So gross an indignity to the Country, Hamilton felt, required immediate notice, and he published a series of essays over the signature of "No Jacobin."

In the first of these, after indicating "the Jacobin" as the production of Genet,* he proceeded to an exposition

* Hamilton's Works, vii. 118.

of the twenty-second article of the Treaty with France, the purport of which had been so much and so often misrepresented.

From a critical examination of this article, from the cotemporaneous regulations made by France when this treaty was concluded, from the principle in the interpretation of treaties, that in case of a concession of advantage to one nation incommunicable to another, involving hazard, the construction against such concession, where there is any doubt, should prevail—and from a comparison of this with the other articles of the treaty, the conclusion is derived, "that there is no plausible ground for the pretension set up by the Minister of France of a right to sell her prizes in the American harbors—that the natural construction of the clause from which this right was claimed obviously excludes it, and that the United States cannot *ex gratia* accede to it, without departing from neutrality, and encountering the mischiefs of a war with which they have nothing to do. Thus this pretension was an insult to the understandings and a glaring infraction of the rights of the American people.

In the Second Number, he examined the question, how this claim would stand independent of treaty.

The plain dictate of reason and established principle of the law of nations is stated, that "No Nation, unless bound so to do, specially by treaty made before the war and without reference to it, can lawfully succor, countenance, or support, either of the belligerent parties. Vattel, Bynkerschook; Jenkins and Valin are quoted to establish the general principle, and, as authorities on the precise point in question, showing that an asylum is to be granted in case of a tempest to foreign armed vessels entering with their prizes, only to remain while the tempest lasts, and if they had put in for any other cause, only for four and twenty hours.

From this investigation, it appeared, that the United States had given to France a doubtful privilege, to which she was not entitled by treaty, of selling prizes by her armed vessels, the treaty stipulating no more than free access or egress.

Sweden, pursuing the path of Neutrality, had expressly prohibited the fitting privateers in her ports, a strong confirmation of the usage of nations on this point.

The injury that would result from this permission to all the other belligerent parties was then adverted to, and it was shown, that its consequence would be to involve the United States in the war—a consequence intended by the agents of France, notwithstanding their delusive professions of not desiring it, as shown by their industriously employing every expedient that could tend to produce the event.

The third number contains an examination of the alleged breach of the Seventeenth Article of the treaty in the act of taking military possession of the French prizes made within the limits of the United States. The right to do this is derived from the obligation of every nation to protect the persons and other property of other nations with whom it is at peace, while within its jurisdiction.

This principle could not be disputed, but it was pretended that the redress for this injury was to be obtained through the channel of negotiation, and not by the immediate exertion of the authority of the neutral nation. This is denied; either as founded on principle—on international law, or on the practice of nations.

No principle could require of a nation to defer to the contingent remedy of negotiation the opportunity of redressing itself, or of doing justice to another. The immediate exercise of its authority was the most efficacious and the most peaceful mode.

This position is confirmed by the great Publicists and by the general usage of nations—a neutral fortress never hesitating to fire upon the vessel of any power which shall commit hostility against another power within the reach of its cannon. The essence of jurisdiction being "to redress all wrongs within its sphere," and a capture within the jurisdiction or protection of a neutral nation not being a lawful act of war, but a mere trespass, it followed, that the United States had an undoubted right, within the terms of the treaty, to interpose coercively.

An arrangement made with Genet to hold the prizes until the fact was ascertained, was adduced to show, that the interference was not the effect of an unkind disposition. Had there been a disposition to proceed with strictness and rigor, Hamilton declared, it was fully "warranted by the disrespectful treatment experienced from the agents of France, who had acted towards us from the beginning more like a dependent Colony, than an Independent Nation—a state of degradation to which, I trust," he said, "the freedom of the American mind will never deign to submit."

The fourth number embraced a brief examination of the allegation, that, while by the treaty with France, the goods of her enemies on board American ships were free from capture, those of France were, in the same ships, subject to the depredations of her enemies, without any measures on the part of the government to cause French property to be returned, and to prevent similar hardships being imposed in future.

This objection is met by the obvious statement, that by the general law of nations, as laid down by all writers and practised upon by all nations previous to the war of the Revolution, the principle was clearly and fully established, that the goods of an enemy in the ships of a friend

(a neutral power) are lawful prize, and that the goods of a friend in the ships of an enemy (contraband excepted) are not lawful prize; subject only to exceptions in particular treaties.

An effort of the armed neutrality to establish the doctrine that free ships make free goods failed. The United States did not accede to it. They only embodied the principle in their treaties. Great Britain and other European powers did not concur in this new principle. An established rule of the law of nations can only be deemed to be altered by agreements between all the civilized powers, or by a new usage generally adopted and sanctioned by time. Neither having happened, the old principle must be considered as still forming the basis of that law. The United States having no treaties with either Russia, Spain, Portugal, Austria or Savoy—with them the old rule must govern. Thus the United States had no right to assert the new principle against them, nor was it believed that they ought to do so in prudence and good policy. In a war, such as then existed, of opinion and of passion, no concessions to doubtful pretensions were to be expected. The powers not bound by treaty would from circumstances adhere to the old rule, and the United States were not in a condition to enforce a claim founded solely on the interests of a Neutral.

The hesitation to enter upon this knight-errantry was a subject of clamor, without recollecting, that while the treaty with France protected her enemies' property in American ships, American property in enemies' ships lost by that treaty the security to which it would have otherwise been entitled. Another consideration is adverted to, that a much larger amount of American property is afloat in vessels of the enemies of France, than of French property in American bottoms.

In this state of things, Hamilton asked, "What is there in our history that can authorize our being degraded with the supposition that we are ignorant of our duties and our interests?"

The closing number reviewed cursorily Genet's conduct, exhibited the forbearance of the government, and exposed his repeated efforts to involve the United States in the War.

These able essays, though, with those of Pacificus, little more than a rapid discussion in a popular form, of the questions which had arisen in the Cabinet, appearing, as they did, during its excited discussions, it cannot be doubted, had their influence in inducing the ultimate, long delayed decision of the government.

Rumors had got abroad of Genet's threatened appeal to the people. Seeing himself frowned upon by the more respectable citizens of Philadelphia, he resolved to transfer the scene of his personal intrigues to the now Commercial Metropolis of the Union, the minds of whose inhabitants had been prepared to give him a zealous welcome.

Under the general impulse in favor of France, on the arrival of Hauterive, its recently appointed Consul, at New York—the civil authorities, the clergy and the corporate bodies hastened to pay him homage and receive from him the fraternal kiss. The excitement increased. This impulse grew stronger; the public places and walks resounded with songs in honor of "the Great Nation."

The efficient obedience of Clinton to the orders of the President as to the privateers in that port checked for a time the popular excitement. But it was soon after rekindled by an engagement on the coast between a French and English frigate, from which the latter escaped, seriously worsted. This result was announced with all the

exaggerations then characteristic of the publications of the French agents. Every detail was given with minute extravagance, and welcomed with gratulations as loud as though the American flag had won new trophies. It was the occasion of a festival, at which sentiments of devotion to France were mingled with bursts of applause; and the flags of the successful vessel were presented to an American Society as tokens of the respect for their Republican brethren of France. A circular, similar to that issued by Genet, was now addressed by the Democratic leaders to the "Friends of Liberty and Equality." The trial of Henfield was commented upon, and they were told, "If the Executive of France had ordered prosecutions against La Fayette and the French officers who espoused the American cause during the Revolution, (as the Executive of the Union has against Henfield and Singletary,) America would not have had the interest of that patriot to intercede for her."

At this moment of excitement the French fleet repaired from the Chesapeake to New York, and Genet proceeded to meet it. Chimes of bells and volleys of artillery announced his approach. A delegation was appointed to receive him, and a meeting was convened in the fields to present a congratulatory address. This address,* after a warm eulogium upon France—a tender of their hearts, and undisguised affections—and avowal of their readiness to sacrifice their dearest interests to benefit her, adverted to the proclamation of neutrality, and their regard to it, as a measure calculated to prevent all acts of hostility, but declared that "as the question relates to sentiment and principles there is no neutrality. The virtuous and the wise through all ranks of society are

* Presented by Commodore Nicholson, Aug. 7, 1793.

enlisted with you. It is vice, ignorance and cowardice that alone oppose the empire of truth and independence, and shrink from the common cause of human nature." It closed with an avowal of esteem for his personal character, and an expression of the hope that he might long fulfil the duties of his exalted station.

In his reply, while declaring that France did not wish the United States to be involved in the war, he reminded them of "her expectation that America would fulfil the treaties, as France had on her part; that they must know that good faith alone, can insure respectability to a nation; that a *pusillanimous* conduct provokes insolence, and brings upon a country those dangers which it weakly means to avert."

"There is," he said, "indeed, but too much reason to fear that you are involved in the general conspiracy of tyrants against liberty." "The cause of France is the cause of all mankind, no nation is more deeply interested than you are in its success. Whatever fate awaits her, you are ultimately to share; but the cause of Liberty is great and it shall prevail."

It ought not to escape attention, that the insults offered to the President by Genet were known in New York, prior to this homage being paid to him; and that intelligence had been recently received of a decree of the French Convention warring upon all neutral commerce.

The language held at the assemblage of the partisans of Genet in New York alarmed the Merchants of that city, and a meeting of the Chamber of Commerce was convened. The citizens friendly to the administration were also called together. They passed resolutions approving the Proclamation of Neutrality; the conduct of the Governor of the State in his support of the execution of the injunctions of the Treasury circular, and censuring

every act tending to violate its instructions. Advices were received by Hamilton of these intended proceedings, urging energetic measures, *after* those measures, and the recall of Genet had been determined.*

The proceedings of the Merchants were laid before the President. On receiving them, he addressed a note to Hamilton,† "I thank you for giving me the perusal of the letters to you, which are herewith returned—and I pray you to draught, on my behalf, what you may conceive to be a short but proper and respectful response to the letter of the chairman, or to the resolves or both, as you shall judge best, (for they come in a form so unusual that I can scarcely know the mode that will be most eligible)." Hamilton prepared a brief reply, expressive of the President's satisfaction with the approbation of the inhabitants of New York, and of his confidence in their disposition to sustain a neutral policy. It also acknowledged "the prompt and decided co-operation" of Clinton, and of the Governors of the respective States.

A few days after, the proceedings of a meeting of the citizens of Richmond in Virginia were presented to Washington. The place—the fact that Chancellor Wythe presided, and that the resolutions, framed with his marked ability, were from the pen of John Marshall, gave them more than ordinary importance. The President also delegated the office of answering them to Hamilton.‡

After an interval, another address was presented to him.§

* King to Hamilton, Aug. 3, 1793. † Aug. 10.

‡ Washington to Hamilton—Note of 27th Aug.

§ Monday evening, 2d Sept.—DEAR SIR: "Interwoven in the enclosed address are sentiments as difficult to answer, as it would seem to pass by unnoticed, believing, as I do, that they are the sentiments of a large part of the people of this country.

"I would thank you for making such alterations in the expression of the

These decided expressions of public feeling disappointed the Democratic leaders, and gave great umbrage to Genet. Much of this feeling was attributed to the disclosure of his threatened appeal from the Government to the People. At first, this outrage was defended—then palliated—then denied.

The fact of this appeal had been made public by the Chief Justice of the United States and by Rufus King. This denial drew from them a joint statement confirming the assertion.—Extravagant as had been the previous conduct of the French minister, it was transcended by his deportment at this moment. He addressed a letter, the next day, to the President, in person.

This letter, of the thirteenth of August, opened with the assertion, that in the fulfilment of the trust which had been confided to him, he was not to be impeded, by any private considerations. "That *his conduct* had been marked with all the energy and frankness which ever characterize a true republican." "To *you alone* through the Secretary of State have I complained of the principles you have adopted, and remonstrated against decisions which have resulted therefrom. To *you alone* have I declared, that the Federal Government, far from manifesting any regard for our generous conduct towards this Country, for the new advantages we were offering to her commerce, or for the reiterated demonstration of our real and disinterested friendship, were sacrificing our interests to those of our enemies, by their interpretation of the treaties which exist between us. To *you* have I represented, without reserve, that this conduct did not ap-

draft of an answer (enclosed) as in your judgment will make it palatable on all sides, or unexceptionable. The bearer will wait, as I wish to return the answer by the mail of to-day. No matter how rough the answer comes to me, so it can be read. Yours always, G. W."

pear to correspond with the views of the people of America; with that desire to observe with fidelity their public engagements, or with their affectionate regard for the cause of Liberty, upon which their very existence and prosperity depend."

He then adverted to the publication of his menaced appeal to the people, "as if the slightest hint of an appeal, which, a magistrate deserving of his high office should ardently desire, was to you the greatest offence I could offer." He demanded of the President "an explicit declaration," "that he had never intimated to him an intention of appealing to the people," and closed his letter with the observation, "that his cause must triumph in spite of the implacable enemies and the present cold indifference of some who were its ancient friends."

This offensive communication was answered through the Secretary of State by the information, "that he was desired to observe to him, that it is not the established course for the diplomatic characters residing here to have any direct correspondence with the President, the Secretary of State being the organ through which their communications should pass. That the President does not conceive it to be within the line of propriety or duty for him to bear evidence against a declaration, which whether made to him or others is perhaps immaterial. He therefore declines interfering in the case."

This letter of Genet, evidently prepared for the press, was immediately published. The attempt to evade the force of the charge, by denying that the threat referred to the President personally, failed. A Report from the Department of State confirmed the fact beyond all dispute. The publication of this letter to the President was the very act charged, but denied.

The Gazette established by Jefferson and Madison

immediately entered upon a defence of Genet. It asserted that the people alone are the basis of the Government. They alone are the authors of the law, and "to them alone must the ultimate decision of the interpretation of a treaty belong." "An interpretation of the treaty by the President when it clashes with Mr. Genet's is of no more validity, than that of the Ambassador. If then, the President pursued measures agreeably to *his* interpretation, why has not Mr. Genet an equal right to conduct himself in conformity to *his* opinion. He chose however, to appeal to the authors of the treaty, to whom the President is doubtless responsible. Those who are friends to the cause in which his country is engaged, those who are not enemies to the progress of universal freedom, must applaud his conduct, and approve of those measures which he has already pursued, and which are perfectly consistent with that prudence and magnanimity which will ever distinguish the honest representative of a free, generous and enlightened nation."

This open defence was followed by an article still more marked. It was asked: "Is the President a *consecrated* character that an appeal from his decision must be considered criminal? or are the people in a state of monarchical degradation, that to talk of consulting them must be considered as great an offence as if we were under a dominion equal to that of the old monarchy of France?" "If there is a difference between the Executive and the Minister of France who ought to determine this difference, but the people? We crouch to Great Britain, but we seem disposed to tantalize France, that generous and gallant nation who gave us a political existence. The transactions of the *Divan* are not more impenetrable than the transactions of our Executive, for it appears to be a tenet that the people have no right to be

informed, and that it would be lessening the dignity of Government to explain its actions to them."

The abuse of the Chief Justice of the United States and of King, a Senator,* was still more virulent. Their statement was alleged to be "an attempt to transfer the honest affections of the American people from the cause of France to the cause of Britain," as indicative "of a project of an offensive and defensive alliance with Britain;" the forerunner of a plot from which would result, "perpetual debt, commensurate taxes, the triumph of despotism"—"the plot of a British Faction with our Financial officer at its head."

The Enforcement of the Rules which emanated from the Treasury Department, while they proved the decided purpose of the administration, heightened the clamor of the partisans of France.

A prize taken by a French privateer fitted at New Castle on the Delaware, within a mile of the American shore, was brought into New York. The Marshal being ordered to serve a process to arrest her, Genet forbade the arrest, and gave orders to the French Squadron to protect her by force.† This act of violence was the more flagrant, as he had been recently informed, that "no power in this country could take a vessel out of the custody of the Courts." Yet the seizure was denounced as an act of hostility—an infringement of the treaty. An American vessel (the first expedition from the western States) which sailed from the Monongahela with American produce—manned by American citizens, was captured because she had taken a Spanish passport at New Orleans, by the "Petit Democrat;" and brought into

* Randall, ii. 184, says, of these conspicuous persons. Individuals who acted as "*informers*"—"Certificate Makers."—

† State Papers, i. Foreign Relations, p. 175.

Philadelphia. She was immediately taken possession of by a party of Militia under the orders, and in the presence of Hamilton. This occurrence was the occasion of a polemic diatribe against the government for not having possessed themselves of the mouths of the Mississippi!!

Irritated by opposition, every effort was made by the French agents to excite the feelings of the populace. The arrival at Boston of a French frigate—"La Concorde"—was greeted by salutes and military display under the orders of Samuel Adams—the acting Governor. This manifestation was soon after requited by hanging on the mainmast of this frigate, tablets, with the names of some of the principal merchants of that town,—conspicuous supporters of the National Government, denouncing them as aristocrats.

A schooner belonging to certain merchants of Nova Scotia had been carried into that port as prize to a French privateer—Process of replevin was directed to the Marshal of the District for the purpose of trying the validity of the capture. After he had taken possession of the vessel, a body of Marines under the command of the Lieutenant of the Concorde was despatched by order of the French Vice Consul to seize the vessel. They rescued her from the Marshal, and held her in their possession until the departure of the frigate, in order to await the decision of the Vice Consul, who insisted upon taking cognizance of the question of prize, in defiance of the known determination of the American government, that he would not be permitted to exercise such jurisdiction within the territories of the United States.

CHAPTER XCV.

INFORMATION was about this time received of a decree of the National Assembly of France "revoking the principle of free ships making free goods and enemy ships making enemy goods, and making it lawful to seize neutral vessels bound with provisions to any other country and to carry them into the ports of France—there to be landed and paid for;" —also of another decree, "excepting the vessels of the United States from the operations of the preceding decrees."

An authentic copy of "Additional Instructions" by Great Britain to her vessels of War dated the eighth of June, was likewise received.—These instructions permitted them to stop the vessels of neutral nations laden with corn, flour, or meal, bound to the ports of France—to send them into British ports—the provisions to be purchased by the Government, and the ships released after due allowance of freight, security being given not to proceed to the ports of any country not in amity with Great Britain.—The seizure and blockade of all vessels violating a blockade was also authorized, excepting those of Denmark and Sweden, which were only to be prevented entering on the first attempt—but on the second were to be condemned.

This "impolitic" and violent "measure," as Hamilton

designated it,—"impolitic," because, in disregard of every sentiment of humanity, it proposed to attain an impracticable object,—the reduction of the French nation to submission by famine—"violent," because, though sustained by detached opinions of publicists, and even by an act of the Congress of the Confederation, was a flagrant invasion of neutral commerce, requiring immediate attention.

While these external and menacing difficulties were pressing the administration, the State of Georgia had openly taken ground in direct opposition to the General Government. Her legislature declared the Federal officers, attempting to levy an execution in that State, guilty of felony and punishable capitally.—Subsequently, a letter was received from its Governor, covering the proceedings of a Council of War, relative to an expedition being organized against certain towns of the Creek nation.

A Cabinet council was called, and on the thirty-first of August decisions of much moment were taken.—Its opinion was drawn by Hamilton * and unanimously concurred in. A prosecution of the French consul at Boston was ordered, and, if the rescue of the seized vessel was made by him, it was decided, that his "exequatur should be revoked."—As to the French decrees,—Morris was to be provisionally instructed, in case the first decrees had passed and not the exceptions, to remonstrate against them "as contrary to the treaty and the law of Nations, and to require their revocation and a full indemnification for the losses" sustained by them.

As to the British "Instructions," Pinckney was to be "provisionally instructed to remonstrate against them as

* Hamilton's Works, iv. 471.

contrary to the rights of neutral nations"—"to urge a revocation of them, and full indemnification for losses suffered in consequence of them"—also, that "explanations be desired of the reasons of the distinction made between the vessels of Denmark and Sweden and those of the United States, attempting to enter blockaded ports."—As to the expedition from Georgia,—it was to be disapproved, as "unauthorized by law, contrary to the present state of affairs" and to previous "instructions;"—and the President's expectation expressed that it be not proceeded in. The Governor of South Carolina was to be informed that "the co-operation desired of him by the Governor of Georgia is not to be afforded."

Thus a state of affairs had arrived demanding the utmost wisdom and firmness.—The perils of this infant nation Hamilton regarded with all the solicitude of a statesman;—Jefferson viewed them as a heated partisan, seeing no escape from the dilemma in which the conduct of Genet and his intrigues with him had placed him. The day* after this Cabinet decision, he wrote to Madison.

Having stated the course to be pursued as to the French consul and as to the British instructions, he proceeds—"Instructions are gone† to Mr. Pinckney to require a revocation of them, and indemnification for all losses which individuals may sustain by them, in the mean time. I have not the least expectation of the revocation, and shall therefore be for laying the whole business (respecting both nations) before Congress. While I think it impossible they would not approve of what has been done disagreeable to the friendly nation, it will be in their power to *soothe* them by strong *commercial retaliations against*

* September 1.

† The letter to Pinckney—giving these instructions was prepared with great caution and bears date *Sept.* 7, 1793. Jefferson's Works, iii. 287.

the hostile one.. Pinching their commerce will be just, against themselves, advantageous to us, and conciliatory towards our friends, of the hard necessities into which their agent has driven us. * * * * You will see much said and gainsaid about Genet's threat to appeal to the people. I can assure you *it is a fact*"—"I received yesterday the MSS. you mentioned to me from 'Franklin.' I have only got a dozen pages in it, and never was more charmed with any thing. I will direct it to appear a fortnight before their meeting." *—On the eighth of September he again writes to Madison, and says, "I have received and am charmed with No. Five." As to the essays of Franklin,† "he had struck out a page on Virginia an apology for the continuance of Slavery among us." * * * "Genet has, at New York, forbidden a Marshal to arrest a vessel and given orders to the French squadron to protect her by force. Was there ever an instance before of a diplomatic man overawing and obstructing the course of the law in a country, by an armed force?" The Indians, he also writes,‡ "have refused to meet our Commissioners, unless they would make the Ohio a boundary by preliminary condition.—Consequently they are on the return and we may suppose Wayne in movement."

It was under such circumstances, when every effort was demanded to assuage the public feeling; when, if doubts could be supposed to exist as to the policy of the Government, they ought to have been silenced by the unequivocal evidence of the determination of France to

* Congress.

† Madison to Monroe, Sept. 15, 1793. "Mr. Jefferson is in raptures with the performance of our friend in Charlottesville. He means to have it appear about two weeks before the meeting of Congress. This will not coincide with the plan of the author, who wished its publication to be in time for the meeting of the State Legislature. Think of this, and let me have your ideas."

‡ To G. Morris.

involve this infant Republic in the contest which had set all Europe in flames—when the dangers of foreign interference had been so recently manifested in her conduct to Geneva and Savoy, and in the fate of Poland;—when her accumulating excesses must have discouraged every friend of rational liberty and of humanity—the murder of the King having been followed by that of the Queen! and these bloody deeds by numberless massacres, without the forms of judicial inquiry—when Washington had been insulted, the independence of the administration assailed, and the National sovereignty violated;—France and England—each issuing decrees, which if not repealed, must be met by arms—the Western and Southern frontiers both menaced with an Indian War—it was such a time Madison selected to appear before the people as an opponent to the Proclamation of Neutrality.

It has been seen, that Hamilton soon after he beheld the progress and the dangers of the deceptive interpretations of this instrument of peace, and the bold attacks upon Washington, resolved to sustain the policy he had advised, by the essays of "PACIFICUS." The first of these essays was published on the twenty-ninth of June. They were continued to the seventh number, appearing at intervals during the succeeding month.

Their scope was to repel the charges of having issued this proclamation without authority;—that it was contrary to the treaty with France;—to the gratitude due to her aids—that it was out of time and unnecessary. He stated, that the object of this State paper was to make known, to the belligerents and to the citizens of this country that it was *at peace*—under no obligations by treaty to become an associate in the *War*,—its purpose to perform the duties of neutrality and to warn against any acts contravening those duties. This admonition was particularly

required to show, that, under existing circumstances, the United States were not bound to execute the guarantee in the treaty with France.

The authority for issuing it was deduced from the fact, that the management of its affairs with foreign nations is confided "to the government of the United States." The inquiry, he said, was, "what department of our Government is the proper one to make this declaration of neutrality when the engagements of the nation permit, and its interests require, that it should be done? A correct mind will discern at once, that it can belong neither to the legislative nor judiciary department, of course must belong to the Executive."—"The legislative department is not the organ of intercourse between the United States and foreign nations. It is charged neither with *making* nor *interpreting* treaties. It is, therefore, not naturally the member of the Government which is to pronounce the existing condition of the nation with regard to foreign powers, or to admonish the citizens of their obligations and duties in consequence; still less is it charged with enforcing the observance of those obligations and duties. It is equally obvious, that the act in question is foreign to the Judiciary department. The Judiciary has no concern with pronouncing upon the external political relations of treaties between Government and Government. It must, then, of necessity belong to the Executive department to exercise the function in question, when a proper case for it occurs. It appears to be connected with that department in various capacities—as the *organ* of intercourse between the nation and foreign nations;—as the *interpreter* of the national treaties in those cases in which the Judiciary is not competent, that is, between Government and Government;—as the *power* which is charged with the execution of the laws of which treaties

form a part, as that which is charged with the command and disposition of the public force."

The constitutional powers of the Executive department were thus examined, in order to ascertain the propriety of its taking this measure, and its authority to take it. The fitness of it in reference to the treaty, and to the relations with France, was subsequently vindicated.

Madison submitted his answer to Jefferson—

"You* will see that the first topic is not yet completed. I hope the second and third, to wit—the meaning of the treaty and the obligations of gratitude, will be less essential. The former is *particularly delicate*, and, though I think it may be put in a light that would reflect ignominy on the author of "Pacificus," *yet I had rather not meddle with the subject* if it could be avoided."—He states, he had received from the reputed author of "Franklin," a pamphlet against the fiscal system and Bank. "It requires me to communicate personally with Monroe.—It really has merit—always for its ingenuity—generally for its solidity, and is enriched with many fine strokes of imagination, and a continued vein of pleasantry and keen satire that *will sting deeply.*"

To avoid a collision with the President, he had previously inquired, "in what sense in his answers to addresses he uses the word Neutrality." "If he should forbear," he again writes,† "the use of the term in all his answers subsequent to the perversion of it by 'Pacificus,' it will strengthen the argument used, but that must be a future and contingent consideration."

The changed position of Jefferson, since the final action of the Cabinet, forbade his receiving any light from him.

* August 11. 1793.

† From the residence of Monroe. Aug. 22, 1793.

In his reply to "Pacificus," Madison, following the intimation of Jefferson, labored to exhibit Hamilton as arrogating to the Executive department, powers which belonged to the other departments of the government, upon constructions derived from the Constitution of England, and to excite against him prejudice as the advocate of "constructive prerogative."

In confirmation of this charge, the phraseology is referred to, that the management of the foreign affairs is "*confided to the Government.*" By the term "government" he is represented as meaning the Executive as vested with the whole government, to the exclusion of the other departments.

By adverting to the language previously quoted, the character of this allegation may be determined. The meaning of other expressions in these Essays was perverted to establish the inference, that Hamilton was seeking to give the Constitution an interpretation analogous to that of Great Britain.*

If the propriety of a proclamation enjoining the duties of peace is admitted by Madison, that of declaring a state of neutrality to exist is denied, as being an usurpation of a power of the legislature. The wish is expressed, that language other than that which declares the disposition, duty and interest of the United States to adopt and preserve "a conduct friendly and impartial towards the bel-

* "Several pieces with the signature of PACIFICUS were lately published which have been read with singular pleasure and applause by the foreigners and degenerate citizens among us who hate our Republican Government and the French Revolution." "Principles are advanced which strike at the vitals of its Constitution, as well as at its *honor* and *true interest.* Whence can the writer have borrowed this doctrine! There is but one answer. The power of making treaties, and the power of declaring war, are *royal* prerogatives in the British Government, and are accordingly treated as *Executive* prerogatives by *British* commentators." Helvidius, No. I.

ligerent powers" had been preferred; and the force of the language as a declaration of neutrality is disputed.

The Constitution enjoins on the President the duty "of giving information of the *state of the Union.*" Yet the exercise of the power of issuing a proclamation of neutrality was seriously contested and earnestly inveighed against, as an alarming usurpation.

Madison had previously insisted upon the construction of the Constitution he now charged to have been the basis of the exercise of this power; and subsequently exercised the very power, he now denied to Washington.*

The numbers of Pacificus were written under all the pressure of official cares and amid the harassing vexations of Genet, to aid in the fulfilment of a great national duty—the preservation of peace, and may be subject to "little cavils." †

That the Executive, not being the judge of the causes of war nor the interpreter of treaties, cannot be the department to preserve peace, is the practical result of the letters of HELVIDIUS. ‡

How could Hamilton have answered to his conscience

* In 1809 an act was passed interdicting commercial intercourse with Great Britain, but authorizing the President to renew it in certain contingencies. Madison *issued a Proclamation* in virtue of this act to that effect; but subsequently for the alleged reason, that England had not performed the condition on which that intercourse was to be renewed, Madison, *without any law*, but *as an executive duty*, issued a *second* proclamation, declaring the act prohibiting such intercourse, "as remaining in legal force." State papers, F. R. i: p. 75.

† The address approving this proclamation was unanimously sanctioned by a vote of the House of Representatives, Madison being a member.

‡ Tacitus thus describes the character Madison *assumed*: "Civis, Senator, Maritus, Amicus, cunctis vitæ officiis equabilis, opium contemptor, *recti pervicax, constans adversus metus.* Erant quibus famæ appetentior videtur, quando etiam sapientibus cupido gloriæ novissima exuitur." Helvidius—a publican, the ornament of Rome, was *proscribed* for his *constancy.*

and to his Country, had he sacrificed the duties of a statesman to such refinements?

It is an important fact, that these papers of Madison furnished to Genet the argument and the authority upon which he relied for his assertion, that the proclamation of the President was "a decision relative to objects which require the sanction of the legislative body."

The impression which the recent disclosure of Genet's procedures made and the embarrassments it caused, are seen in a letter * to Jefferson from Madison respecting his intended resignation. "The Anglican party is busy as you may suppose in making the most of every thing, and in turning the public feelings against France, and thence in favor of England. * * * The Enemies of France and of liberty are at work to lead them from their honorable connection with these, into the arms and ultimately into the Government of Great Britain."—After stating that he had drawn up a paper to be used in the different counties of Virginia, he observes, Monroe "sees so forcibly the difficulty of keeping the feelings of the people as to Genet distinct from those due to his constituents, that he can hardly prevail upon himself absolutely and *openly* to abandon him. —I concur with him, that it *ought to be done no further than is forced* upon us—that in general, *silence* is better than *open renunciation* and crimination; and that it is not unfair to admit the apologetic influence of the errors in our own government, which may have inflamed the passions which now discolor every object to his eye—such as the refusal, in the outset, to favor the commerce of France more than that of Great Britain;—the unfortunate appointment of Gouverneur Morris to the former, the language of the Proclamation;—the attempts of 'Pacificus' to explain away and discolor the treaty—the notoriety of

* Sept. 2.

the author, and the appearance of its being an informal manifestation of the views of the Executive." * * "*It is said*, that Marshall, who is at the head of the great purchase from Fairfax, has lately obtained pecuniary aids from the Bank, or people connected with it. I think it certain, that he must have felt, in the moment of the purchase, an absolute dependence on the monied interest, which will explain him to every one that reflects on the actual character he is assuming."

Writing soon after * to Monroe, Madison remarks of Genet—"His conduct has been that of a madman. I find that the Anglicans and Monocrats from Boston to Philadelphia are betrayed by the occasion into the most palpable discovery of their real views."

While such was the temper of the Virginia Trio, Hamilton received most gratifying intelligence of the state of the public mind in New England. "I am happy," Ames writes, "to see the good effect of the exertions which have been made to keep our Country from meddling with the War. Our fears have in a degree subsided.—They have been strong enough to give their full impression to the services of the Officers of the Government. The public mind seems open to receive the truth —such periods occur rarely, and ought not to pass away in vain."

At this moment of political excitement an epidemic called "the Yellow fever" made its appearance in Philadelphia.

The novelty and fatality of the malady so much alarmed the people, as to dispel for a time every other consideration, but a regard to their personal safety.

Most of the inhabitants of Philadelphia, who had the means of removing, took flight, but such was the terror

* Sept. 15.

which preceded them, that they were excluded from the adjacent cities by a guard, and many of them fell victims to the exposure they incurred.

Hamilton was then residing at Fairhill, a short distance from the city, to which he daily resorted to perform his official duties, undeterred by any dread of personal hazard.

He contracted the disease, of which his wife also became ill. They both were in extreme danger at the same time—but, happily, his earliest friend, Edward Stevens, an eminent physician, was then on a visit to Philadelphia —"to whose skill and care under God," as he observed, "they were indebted for their recovery." The severity of the attack* rendered it necessary for him to remove from the scene of business, and he proceeded by slow stages† to the residence of General Schuyler at Albany, where, after some obstacles being interposed by its authorities to his abode near them, he remained to recruit his health.

Previous to Hamilton's illness, the Secretary of State had been directed by the Cabinet to communicate to the ambassadors of the belligerent powers its recent decisions.

* Jefferson to Madison, Sept. 8. "Hamilton is ill of fever, as is said. He had two physicians out at his House the night before last." After dwelling on the circumstances which disclose his hope of Hamilton's decease, he breaks forth at such a moment, in a most malignant attack upon him.

† On his first stage he met with an evidence of feeling which deeply affected him. The tavern which he reached was full of fugitives from the city, who, notwithstanding the time which had elapsed since he became convalescent, insisted that he should not be permitted to enter the house. The publican was an Irishman, who had been a soldier of the Revolution. On the instant he heard of this objection, though at the hazard of giving great offence, he invited Hamilton in—observing—"I am his enemy in politics, but I know he is a brave soldier, and rather than my door should be shut against him, he shall come in, and every other may go out."

Hammond was assured, that compensation would be made for all the British vessels illegally captured prior to the seventh of August by vessels armed within our ports, not only on the coast but on the high seas; and as to subsequent captures, all the means in our power would be used for their restitution. A circular was accordingly issued to the Consuls of France apprising them, that in case any further violations of neutrality were committed by them, their exequaturs would be immediately revoked. A remonstrance was addressed through Pinckney against the recent British instructions.* No remonstrance, though ordered by the Cabinet, was made by Jefferson against the French decrees.† Having, by order of the government addressed a peremptory letter to Genet as to another violation of neutrality, he left Philadelphia for Virginia.

On the day of his departure he writes to Madison—"The arrangement on which I had consented to remain another quarter was, that the President was to be absent three weeks, and, after that, I was to be absent six weeks. This got me rid of nine weeks out of the thirteen, and the remaining four, Congress would be sitting. My view in this was, precisely to avoid being at any more Councils as much as possible, that I might not be committed in any thing further."‡ Thus does he confess the motive of his approaching retirement from office.

Soon after, evidence being obtained of the seizure by force of arms of a vessel in the custody of the Marshal at Boston, the exequatur of the French Consul was revoked. A formal protest was presented by him to the Governor of Massachusetts against his dismissal, "without a previous

* September 7, 1793.

† If there was, it is not found among the published State papers.

‡ September 15, 1793.

judgment by the Chief of the Federal Government," and the validity of the act was denied. This audacity was defended in the opposition papers, on the ground, that the Consular Convention with France was made prior to the adoption of the Constitution, and therefore was paramount to it. The revocation of the exequatur was denounced "as an arbitrary proceeding which ought to excite the vigilance of all those who are jealous to defend the rights of man."

New insults followed on the part of Genet. The determination to require the restoration of the prizes, made by the French privateers, being announced to him—he replied —"that he had no authority under his precise instructions to restore them—that no indemnity was due, because the captures were authorized by the treaty;" and for the extraordinary reason to be adduced by a foreign Minister, that by the Constitution of the United States the Executive had not "the arbitrary appropriation of the funds of the State, and therefore his promise was invalid."

Nor did he stop at this point. In obedience to the decision of the Cabinet, but against his own earnest objections, Jefferson had communicated to Genet the letter to Morris requesting his being recalled. He replied on the eighteenth of September.

From this reply, surpassing in violence his previous communications, it is obvious, that he regarded Jefferson's conduct as a defection. He reproaches him with treachery, with having basely abandoned him—with being the instrument of his being recalled "after having made me believe that he was my friend, after *having initiated me into mysteries* which have inflamed my hatred against all those who aspire to an absolute power." "If I have," he says, "If I have shown firmness—it is because it was not in *my* character to *speak*, as many people do, in one way

and *act* in another—to have an *official* language and a language *confidential.*"

Burning with indignation at the evidence of his having been betrayed, he commences thus,—"Persuaded, that the Sovereignty of the United States resides essentially in the people and in its representatives in Congress—Persuaded, that the Executive power is the only one which has been confided to the President—Persuaded, that this magistrate has not the right to decide questions, the discussion of which, the Constitution reserves particularly to the Congress—Persuaded, that he has not the power to bend existing treaties to circumstances and to change their sense—Persuaded, that the league formed by all the Tyrants to annihilate Republican principles, founded on the rights of man, will be the object of the most serious deliberations of Congress; I had deferred, in the sole view of maintaining good harmony between the free people of America and France, communicating to my Government, before the epoch at which the representatives of the people were to assemble, the original correspondence which has taken place in writing between you and myself, on the political rights of France, in particular; on the interests of general liberty, and on the acts, proclamations, and decisions of the President of the United States, relative to objects which require from their nature the sanction of the Legislative body.

"However, informed that the gentlemen who *have been pointed to me* so often as ARISTOCRATS—PARTISANS of MONARCHY—PARTISANS *of* ENGLAND, of her Constitution, and consequently, enemies of the principles which all good Frenchmen have embraced with a religious enthusiasm, alarmed at the popularity which was reflected on the Minister of France by the affection of the American people for the French Republic, and for the glorious

cause it defends; alarmed equally at my unshaken and incorruptible attachment to the severe maxims of Democracy, were laboring to ruin me in my country, after having reunited all their efforts to calumniate me in the view of their fellow-citizens, I was going to begin to collect those afflicting materials; and I was taking measures to transmit them to France with my reports when the denunciation which those men have excited the President to exhibit against me through Mr. Morris came to my hands."—"Such strange accusations, proving only that the American people loves and supports our principles and our cause in spite of its numerous enemies, and that the power which they do me the honor to attribute to me is only that of gratitude struggling against ingratitude, of truth combatting error, I will send no other justifications of my conduct;—I will join only in support of the opinions which I meant to profess some writings which have been published here such as those of "VERITAS" and "HELVIDIUS." *

The additional comments to which this letter gives rise, are the similarity in its language to the language and

* This association of these two essays would indicate that Genet regarded Jefferson as the author of "Veritas" and Madison as the author of "Helvidius." As to this violent attack upon Washington, Jefferson has this minute in his Anas: "July 18. Lear calls on me, *I told him* that Irving an Irishman and a writer in the Treasury, who, on a former occasion, had given the most decisive proofs of his devotion to his principal, was the author of the pieces signed 'VERITAS;' and adds, Beckley told me of it, and he had it from Swaine, the printer, to whom the pieces were delivered." A writer of that period over the signature of "Tacitus" has this passage, p. 21, "Who was it that wrote a famous letter to Mazzei, in which all those calumnies were collected and concentrated, not without some of the specific expressions of "VERITAS," and adds a note, 'By recurring to the letters of 'VERITAS,' and attentively comparing them in style and even in some of their specific expressions, with the letter to Mazzei, doubts formerly existing will rather be confirmed than otherwise, that the reputed author was nothing more than *foster father* indeed.'"

argument in the Democratic presses—the coincidence in the course suggested by him and that proposed in the Cabinet by Jefferson, of convening Congress to decide the questions in issue—the avowal, that the Secretary of State had *inflamed* his hatred against the other members of the Government, that there had subsisted between himself and Genet, relations which produced an inconsistency in that officer's having represented with vigor and with truth the misconduct of that foreign agent!

The disclosure of the threatened appeal from the constituted authorities by the agent of a foreign government produced a powerful reaction in the sentiments of the nation, and showed the extent and the depth of Washington's popularity.—It was no longer regarded as a mere question of friendship to an ally, but, whether the independence of the country should be violated and its Chief Magistrate brought into contempt? Whether the American people were to rush into a mad and frenzied imitation of the conduct of France, or were to respect and support their President as the Organ of the Constitution?

From one extremity of the Union to the other, at the meetings which were held, with the exception of a few in the State of Virginia, where an attempt was made to reconcile the respect due to the President with deference to the Minister of France,*—the most decided approbation was now given of the cautious and conservative policy Hamilton had advised—and Washington had adopted.

* Madison to Jefferson, August 27, 1793—fears the disclosure of Genet's threatened appeal would injure their party, and says "We" (Monroe and himself) "shall endeavor at some means of repelling the danger—particularly by setting on foot expressions of the public mind in important counties, and under the auspices of respectable names. I have written with this view to Caroline," (in Virginia).

To diminish this generous excitement an effort was made to support the doubt raised by Genet as to the fact of the threatened appeal.

A letter was addressed to him by Governor Moultrie of South Carolina, asking a statement of what had passed.—In his reply, Genet declared, that "he would long since have exposed the authors of the *falsehood*, which a dark and deep intrigue had laid to his charge; if he could have condescended to have placed himself on a level with those men—But that it was his purpose to address himself to Congress."

This communication from Moultrie was a source of more surprise, than it could be supposed would have existed, when his previous conduct is considered.—He had acknowledged Genet as the envoy of France, and suffered him to act in that capacity in South Carolina, without any authority; and when permits were refused by the Custom House of Charleston to the privateers fitted there —they were granted by Moultrie, and thus a violation of neutrality was committed.

This charge of falsehood by Genet induced Jay and King to publish a counter statement.—This statement, after deprecating the danger of foreign influence,—was a copy of the letter addressed by Hamilton to King, to which was appended a certificate.

An attempt was made to invalidate the accuracy of their representation by Dallas, the Secretary of the State of Pennsylvania, to whom the threat was made.—It produced a more minute statement from the two members of the Cabinet, Hamilton and Knox, which placed the fact beyond all controversy.*

* Monroe writes, Sept. 25, 1793. "At a meeting at Staunton, Messrs. Jay and King were put on the same footing with the French Minister in a resolution whose object was to conciliate France," and referring to the excise, he

While such means were used to repress the public indignation, another attempt was made to inspire Washington with distrust of Hamilton. Edmund Pendleton, then far advanced in life, was at this time in political communication with Madison. His relations with the President had been of a friendly character. It was supposed, his representations might have weight, and he was induced to write to the President, charging Hamilton with being the "assumed American primate, choosing rather to trust to a monied interest he has created for the support of his measures, than to their rectitude;" condemning "the non-discrimination" between the original holders of the debt and their assignees—and the assumption, falsely ascribing to Hamilton, the having taken the position, "that increase of public debt is beneficial," prompted by unworthy motives.

"With respect to the fiscal conduct of the Secretary of the Treasury," Washington replied, "I will say nothing, because an inquiry, it is more than probable, will be instituted during the next session of Congress into some of the allegations against him, which eventually may involve the whole; and because, if I mistake not, he will seek, rather than shrink from an investigation. A fair opportunity will, in that case, be offered to the impartial world to form a just estimate of his acts, and probably of his motives. No one, I will venture to say, wishes more devoutly than I do, that they may be probed to the bottom, be the result what it may." *

Pendleton had been a strenuous monarchist. "I own," he wrote, "I prefer the true English Constitution." †

observes—"Another mode" (of raising money) "might bring upon its authors the odium which now belongs to the father of this."

* Sept. 23, 1793. Washington to Edmund Pendleton.

† To Carter Braxton, May 12, 1776.

Two days after his reply to this aged person, the President wrote to Hamilton, congratulating him on his recovery, and intimating his expectation that the heads of Departments would assemble in Philadelphia, or in its vicinity, on the first of November.—This was followed by another of the fourteenth of October, stating, "It is time also, if the President can with propriety interpose, to decide something with respect to the meeting of Congress.—But that is difficult.—Some being of opinion, that there is no power vested in the Executive, under any circumstances, to change the place of meeting, although there is power to call Congress together on extraordinary occasions—others think, admitting this, the exigency of the case would warrant the measure.—It is a delicate situation for the President to be placed in.—What would you advise in this predicament? If to call Congress together, where, for the ensuing Session?

"As none can take a more comprehensive view, and, I flatter myself, a less partial one of the subject than yourself, I pray you to dilate fully upon the several points here brought to your consideration.—I shall only add, what I persuade myself you are fully satisfied of, that I am with much truth and sincerity, Dear Sir, your affectionate George Washington."

The same inquiries were propounded to Jefferson and Madison. His letter to Madison, under date of the fourteenth of October seventeen hundred and ninety-three, is the *last*, published in his "Writings."

Jefferson thought the President could not "call Congress to any other place than to that to which they had adjourned."—He suggested, if the President were authorized to decide this question, that the place should be in Philadelphia in consideration of the principles of the Residence bill, and that no *pretext might be furnished*

to that State to infringe it! Madison concurred in this opinion.

"The Constitution," he wrote, says, "the President may, on extraordinary occasions, convene both Houses or either of them."—"But the ordinary import of these terms is satisfied by referring them to the *time* only at which the extraordinary meeting is summoned. If they included a discretion as to the *place*, as well as the time, it would be unnecessary to recur to the expedient of altering the time in order to get at the alteration of the place."—He also quoted the "Residence Act."—Hamilton differed as to the construction of this passage in the Constitution.—"Nothing," he observed, "is said as to time or place, nothing restrictive as to either.—I therefore think they both stand on the same footing.—The discretion of the President extends to *place* as well as *time*.—The reason of the thing, as well as the words of the Constitution, would extend it to both.—The usual seat of the Government may be in the possession of an enemy. It may be swallowed up by an earthquake.—I know of no law that abridges in this respect, the discretion of the President,—if a law could abridge a Constitutional discretion of either branch."—His doubt was as to this being "an extraordinary occasion," which he regarded as meaning "some unforeseen occurrence in the public affairs which renders it advisable for the *Public Service* to convene Congress at some *time* different from that which the Constitution or some law has established." But as doubts existed as to the constitutional power of the President—he proposed to him to *recommend* a preliminary meeting at some other place "to consult informally what further the exigency may require." As to the place he also advised, that it should be in the vicinity of Philadelphia.*

* Hamilton's Works, iv. 477.

CHAPTER XCVI.

LATE in October Hamilton returned to Philadelphia from Albany,* much enfeebled by his recent illness, of which the effects were kept up by the pressure of his official duties, and by the solicitudes which the foreign relations of the country inspired.

He indeed saw, that the neutral policy which had been adopted at last commanded the unequivocal approbation of a great majority of the nation. Evidence had been given of a resolved purpose to maintain the supremacy of the laws. Those who had labored assiduously to excite a sedition now quailed before the determined vigor of his counsels.

He had hoped, from their character, that the recent INSTRUCTIONS of Great Britain were a measure of temporary expedience.—But they proved to have been the result of a convention with Russia, entered into during the previous month of March, and subsequently adopted by Spain, Prussia and Germany.

A letter from Hammond, announcing their existence, defended them.—He contended, that PROVISIONS were contraband in all cases where the deprivation of them is one of the means of War intended to be used, that the

* Hamilton's Works, iv. 477.

laboring classes of France were armed against the powers of Europe; and that its trade was no longer a mercantile speculation, but an immediate operation of the French Government;—that the instruction as to "corn" was a limitation of the law of contraband; and that indemnity was promised to all property really neutral. The exceptions as to Denmark and Sweden were stated to be in conformity to treaties with those nations.

A similar reply was given in London to a memorial by Pinckney, who urged, among other considerations, that, notwithstanding the interruption of their foreign supply, provisions were cheaper in France than in Great Britain; and that thus the manifest and palpable improbability of producing their intended effect, as in case of siege—the only ground of defence, did not exist. The presentation of this memorial was stigmatized by the partisans of France, adopting the language of Genet, as an act of humiliation.—The British instructions were declared to furnish just cause of war, and the conduct of Denmark and Sweden, who were stated to have armed in concert against this obnoxious decree, was adduced as an example for the United States.

What was the conduct of these neutral powers? The wise Bernstorff remonstrated, taking the strong and elevated positions, that the stipulated compensation did not change the duty of the Neutral;—that it was not pardonable for her to renounce her rights in favor of any belligerent power; and that the alleged right to exclude provisions for the purpose of reduction by famine, had been denied to Denmark by all the powers of Europe, and particularly by Great Britain, as "a new and inadmissible principle;" but Denmark did not arm.

Sweden, having by treaty with Great Britain in sixteen hundred and sixty-one, included as contraband, "money

and provisions," expressed her satisfaction with these Instructions, which promised, notwithstanding that treaty, payment, instead of confiscation.

It may be remarked, as additional evidence of the injustice of these Instructions towards the United States, that Hamilton had assigned, as one of the grounds for refusing to permit France to anticipate her debt by a payment in provisions, that it would be a breach of neutrality.

Similar cause of offence, it has been seen, was given by France. Her decree of the ninth of May * being more injurious and comprehensive than the "British instructions."

This decree, having recited "that the flag of neutral powers is not respected by the enemies of France," enumerated six instances of violation by Great Britain, upon which, it proceeded to authorize French cruisers to arrest and bring into her ports all neutral vessels, loaded in whole, or in part, either with provisions belonging to neutrals and destined to enemies' ports, or merchandises belonging to the enemies of France;—the latter, to be confiscated as prize for the benefit of the captors,—the former to be paid for according to their value at the place of destination, with allowance for freight.

Of the instances of violation quoted in the decree, all, but two, were cases of capture by Great Britain, in virtue of the acknowledged law of nations, of the goods of an enemy in the ships of a friend. Of the remaining two, one was the case of an American vessel captured on her voyage from Falmouth to St. Maloes, laden with wheat.

As this was an isolated case, and the order under which it was made, if any existed, was not promulgated, it was not sufficient ground for France, on a single case,

* 1793

to establish a general principle—The other was the pillage of some French passengers on board a Genoese vessel on her voyage from Cadiz to Bayonne by a British privateer—an act of rapacity attributable to the conduct of the privateer's man, not to the policy of England.

Yet, upon such grounds, France, without waiting an explanation, issued this decree,* violating not only the law of nations, but her treaty with the United States, and at the very moment Genet was insisting that the United States would not protect their flag.

Upon a remonstrance by the American ambassador, the National Convention declared on the twenty-third of May, that this decree did not embrace the vessels of the United States—Five days after, on the twenty-eighth of May, the original decree was re-enacted.—Upon a second remonstrance,† a new decree issued on the first of July, declaring the immunity of American vessels from capture, on the ground, that the first decree was a violation of the sixteenth article of the treaty, which was *revoked* by one of the twenty-seventh of the same month, upholding that of the ninth of May, and annulling all measures that might contravene it. Thus, this decree had been twice solemnly revoked and twice revived at the solicitation of private persons, to obtain the confiscation of property assuredly American.‡

The Minister of foreign affairs at Paris admitted the act as being the result of a controlling influence, but did not justify it.

"It ought to be remarked," Hamilton observed, in extenuation, "that the interference with neutral rights, on

* It also contained a retrospective clause confiscating an American cargo which had been judicially acquitted at Havre.—G. Morris's Life, ii. 328.

† June 19, 1793.

‡ Life of G. Morris, ii. 343.

the part of Great Britain, was the act of an established Government—That the conduct of France, unwarrantable as it was, is in a measure palliated by the circumstances that she was in the midst of a revolution."

The American Minister at Paris, designating these acts as the results of "petty intrigues," called upon the National Convention to decide at length this great question, and to declare the treaty with the United States operative in every point, that every resolution opposed to it was null, and that, henceforward no decree can impugn it, unless the treaty be paticularly designated.

He was informed by the foreign Department, that the decree of the ninth of May was an act of reprisal, "the result of the most imperious circumstances, and would continue only as long as our enemies employ against us means disapproved by the laws of humanity, and by those of War."

While such was the degraded condition and debased character of the existing government of France, Atheism was running its mad career.

A feast of "Reason" was now held, at which an Opera Girl, remarkable for her fine attitude in dancing, was selected to represent "REASON;" and a kind of Opera was performed in the great church of the Virgin—"NOTRE DAME." The Actress stood in the place, previously deemed most holy; and was there adored, on bended knees, by the President of the Convention and other principal personages. All the bishops and curates had been previously dismissed.*

The questions at issue between Spain and the United States were also unsettled.

As soon as it was ascertained that the financial

* Life of G. Morris, ii. 380.

measures which Hamilton had proposed would receive the sanction of Congress, instructions were given to the American agent at Madrid to impress on Spain the necessity of an early and immediate settlement of the question as to the Mississippi; and to inform her unequivocally, that the negotiation was not to be resumed, unless the immediate and full enjoyment of that river was yielded.—Arrangements were also urged for the establishment of a free port at its outlet.

These peremptory demands were dictated not only by the excitement which existed among the people of the West, but also by the probability that a rupture had occurred between Spain and England. Should that not have taken place, less urgency was to be manifested.

The difficulties between these two powers were adjusted, and no progress was made in this negotiation.

Upon an intimation from Spain that she was inclined to open a negotiation at Madrid; two Commissioners, Carmichael and Short, were appointed by the United States, and the Secretary of State was directed to frame their instructions.

These were reported by Jefferson to the Cabinet and were completed on the eighteenth of March seventeen hundred and ninety-two. They embraced three objects. The boundary; The navigation of the Mississippi, and commercial arrangements. As to the two first points, the rights of the United States were argued at length.

In deciding what should be the basis of a Commercial Treaty, two principles were considered, either that of *natives* or that of the *most favored nations*. As to the first, the terms proposed by Gardoqui were objected to on the ground, that while the Spanish commerce would have enjoyed this privilege throughout the territory of the United States, he proposed to limit the equivalent to Spain and the Canaries.

As to the second principle, the French treaty was suggested by Jefferson as the proper model, excluding the articles of that treaty which were inapplicable.

On the great questions—the securing the free Navigation of the Mississippi, and the permanent incorporation of the Western territory, as a part of the United States, Hamilton's opinions had been long formed. In his "Vindication of the measures of Congress," published in seventeen hundred and seventy-four, his youthful mind had grasped those objects.* He was an advocate of the treaty of peace with Great Britain on this ground. The protection of these important interests was among the motives suggested by him at the close of the Revolution for the support of a National force—land and naval. The last resolution of the Congress of the Confederation, it has been seen, was from his pen—declaring the free navigation of that great river "to be a clear and essential right of the United States, and that it ought to be considered and supported as such." The most important power of the present Constitution, when regarded as the great mean of preserving UNITY of Empire—"the power to regulate Commerce with foreign nations and among the several States," was proposed by him to the Federal Convention. His first solicitude in reviewing the foreign relations of the present government was the command of this outlet. He asks, "Should Spain persist in her policy of barring the Mississippi against us, where must this end, and at a period not very distant? Infallibly in a war with Spain or a separation of the Western country.

* "The Farmer, I am inclined to hope, builds too much upon the present disunion of Canada—Georgia—the Floridas—the Mississippi and Nova Scotia from other Colonies.—I please myself with the flattering prospects that they will, ere long, unite in *one indissoluble* chain with the rest of the Colonies." Hamilton's Works, ii. 19.

* * * A War with Spain, when our affairs will have acquired greater consistency and order, will certainly be preferred to such an alternative." *

Hamilton's comments on the Report of Jefferson show not only his greater accuracy of mind, but his provident caution to place the rights of the United States as to the Mississippi, on their true ground, and also to guard against any unwarranted limitations of the powers of the Constitution.—The Secretary of State had left the implication, that "Naval victories were the essential means of conquest of a Water."—"Is not," Hamilton asked, "the conquest of a Water incident to that of territory? If this idea is not sound, that combined with it is—namely, that in no event could Spain be considered as having *conquered the river against* the United States, with whom she had no war, but was an associate." The Report was modified to meet these suggestions. It had taken the ground, that should Spain, in her negotiation, either express or imply, that the navigation of this great river was to be held by *grant* from her, that the abandonment of such ground must be a *sine qua non.* Hamilton questioned, whether "the negotiation could be with propriety broken off on such a point;" and suggested, that "it was rather to be endeavored to be avoided, than the avoiding it to be made a *sine qua non.*" Such was his solicitude to settle the right.† The report was altered in conformity. The Report had taken the ground that the United States had no right to *alienate* an *inch* of the territory in question,

* Jefferson—iv. 472, represents him as saying October 31, 1792—"That while, however, he was for delaying the event of war, he had no doubt, it would take place *for the object in question*"—the command of an outlet for the Western country.

† In view of all this, see Jefferson's Works, iv. 471, Oct. 31, 1792, and Randall's Comment., ii. 99.

as an equivalent for the relinquishment of the right of navigation sought, that it must be a case of necessity. Hamilton doubted this position in its full extent; thought "the doctrine applicable rather to *peopled* territory than to waste and uninhabited districts," urging, that "positions restraining the right of the United States to accommodate to exigencies which may arise, ought ever to be advanced with great caution."

Jefferson adhered to his position, for the reason, that this power was not among the *enumerated* powers given by the Constitution to the General Government.

As to the treaty of Commerce with Spain, Jefferson had taken the treaty with France as a model. In so doing, he had declared, that the stipulation in that treaty respecting the reception of prizes was "*exclusive* and incommunicable." "It is," Hamilton asked, "doubtless so as against France, but why is it so as against other nations?" "It is, however, a stipulation very inconvenient and even dangerous to the United States, and one which ought by all means to be excluded." The Report was modified, declaring it "a very dangerous covenant, and which ought never to be repeated in any other instance." Recent events sufficiently showed the wisdom of this objection.

In relation to commercial arrangements, Hamilton observed, "though a treaty of Commerce like that contemplated in the Report ought not to be rejected, if *desired* by Spain, and *coupled* with a satisfactory adjustment of the *boundary* and *navigation;* yet ought not something more to be *attempted*, if it were only to give satisfaction to other parts of the Union? Some positively *favorable stipulations* respecting our grain, flour and fish, even in the European dominions of Spain, would be of great consequence, and would justify reciprocal ad-

vantages to some of her commodities—say wines and brandies." A modification was made in the Report.

Negotiations were opened at Madrid on the basis of these instructions; but it was soon discerned, that the dispositions of the Spanish Court had changed with her new relations—France had declared war against her, she had entered into a league with Great Britain, and viewing the policy of the United States as being favorable to their ally, France, she made overtures to England to aid in the enforcement of her territorial claims, should the United States become a party to the war.

To prevent mutual injuries on their respective bordering territories, Jefferson, soon after the powers to negotiate were given to the American agents at Madrid, framed a convention for the surrender of fugitives from justice, and providing for the adjustment and enforcement of private rights.

And some months after, he gave instructions for a remonstrance to Spain against the conduct of her officers, in exciting the Indians to war, and furnishing them with arms and provisions. To put an end to these frontier difficulties, a stipulation was suggested, that neither party should employ an agent among the savages.

Soon after, two commissioners were sent from Spain to Philadelphia. Their deportment was so objectionable, it was readily assented to, that the negotiation should be conducted at Madrid.

The language of the Spanish commissioners continued to show an angry spirit, anticipatory of a war with the United States. This government saw the danger, and was desirous to remove it, but the state of Europe forbade decisive counsels. To provide means for repelling the Indian inroads, to endeavor to conciliate them, and to apprise Spain of the hazards of a rupture, was the policy

pursued. Still, clouds were lowering. The Secretary of State knew whence they rose, and predicted, in his private correspondence, as inevitable, a war with Spain.

The more immediate motives of the Spanish overtures to Great Britain were the hostile preparations now being made in this country near her confines. Determined to effect its purpose of forcing this Republic into the war, the government of France had adopted two modes—one by maritime—the other by land operations.—The provident energy of Hamilton having defeated the first, Genet, notwithstanding the information of the request that he be recalled, had resolved to resort to the second.

The most commanding port on the Mississippi above New Orleans held by Spain was St. Louis, then a walled town having a strong castle and a small garrison. Its chief importance was as the depot of supplies for the use of the savages by the Canadian traders. Next to this town, was St. Genevieve, an inconsiderable village, only valuable for its salt works. The inhabitants of this region were at this time indignant at a fraudulent purchase of lands in their vicinity against which they had made a reclamation to Congress. Being chiefly emigrants from France, there was reason to apprehend, they would listen readily to any measures hostile to the United States. Their irritation was believed to be kept up by the influence of the traders, which, it was proposed to check, by fitting out light-armed boats on the Ouisconsin and the Illinois rivers, the nearest water routes from Lake Michigan to the Mississippi.

The next Spanish post was at New Madrid, a short distance below the confluence of the Ohio.—Here was a regular fortification under a Captain's command. No other post existed on the river for a great distance, until a strong natural point was reached, known as the "Wal-

nut hills," where fortifications were being erected to mount a number of heavy cannon. Beyond this place was the Natchez, upon which much care had been expended.—The works were in good repair, and being rapidly enlarged.—Between this point and New Orleans armed galleys were stationed.

These positions gave an entire command of the trade of the West, and enabled the Spaniards to maintain a complete ascendency over the numerous tribes of warlike Indians roaming over the vast regions, of which the Mississippi was the great outlet.

With the savages North of the Ohio, the United States were still waging a reluctant warfare; and notwithstanding every effort to soothe those of the South West, there was daily reason to apprehend, that they were only waiting a favorable moment to avenge the wrongs they had suffered on the borders of Georgia and the Carolinas.

Regardless of the calamities which such proceedings rendered inevitable, four Frenchmen were commissioned by Genet to proceed to Kentucky; and, having levied a force there, to attack the upper posts in the possession of Spain, and ultimately to rendezvous at New Orleans, where a naval co-operation was planned.

The minds of the Western people were in the mean time prepared for this attempt, the Democratic Society of Lexington, having at this moment passed resolutions, declaring truly, that the right to the navigation of the Mississippi was undoubted; and insisting that it ought to be *peremptorily demanded.* Measures were at the same time taken to provide military stores and equipments for the expedition, to the command of which, Clarke, formerly an officer of the United States, was appointed by Genet, with power to levy troops for the service of the French Republic. Confiding in the dispositions of the

people of the West, and in the means placed at his disposal, the French Ambassador issued a call for recruits, in which he designated himself, "Major General in the Armies of France, and Commander-in-Chief of the Revolutionary legions on the Mississippi."

The final publicity of his proceedings led to the belief that they were connived at. Late in the month of August seventeen hundred and ninety-three, the Representatives of Spain communicated to the President information of the project, and in evidence of it, a printed address of Genet.

Jefferson was immediately charged to instruct Shelby, the Governor of Kentucky, "to put the people of that State on their guard," and to take the legal measures necessary to prevent any such enterprise. No reply was given by Shelby, until the fifth of October. At that late period, assurances were received from him, that he "would be particularly attentive to prevent any attempt of that nature," and that he was "well persuaded none such is in contemplation."

A Cabinet Council had been called by the President to meet him on his return to Philadelphia, on the first of November.

Hamilton being prevented from attending by continued illness, addressed him, on the third, a further opinion as to the meeting of Congress. He advised, that it be at Philadelphia, but, to relieve apprehension, that a circular be issued informally recommending them to repair to Germantown, not more than a week prior to the day of their meeting. Jefferson also returned at this time, and an incident occurred of singular meaning.

The representatives of Spain now gave information that, early in the preceding October, the project of attacking Louisiana had been carried into effect by the actual

departure of the agents of Genet, furnished with money and with blank commissions to be filled up at their discretion. Jefferson was ordered forthwith to communicate with Shelby. He wrote him on the sixth of November, that "he had it in charge from the President to desire his particular attention, that these persons may not be permitted to excite within our territories or carry from thence any hostilities into the frontiers of Spain"—that it was desirable to effect this by peaceable means of coercion by legal process, but should these means fail or be inadequate—that a suppression by the militia had been ordered as practised in other States. The Secretary of War also wrote to Shelby, using more earnest terms, that "to permit such a measure would be a breach of our neutrality, would involve us in the existing War, and is not to be tolerated in the least degree. The Secretary of State has suggested how this design may be prevented by the usual course of the laws. But if this be ineffectual, he was instructed by the President to request him to use effectual military force to prevent the execution of the plan at the expense of the United States." General St. Clair was at the same time ordered to employ the militia of the North Western territory and the regular troops, "for the suppression of the design and the apprehension of the offenders."

A minute found among Jefferson's papers,* discloses the fact of an interview with Genet in relation to these enterprises, and throws light upon the preceding correspondence.

"Reading to him instructions to Michaud who is going to Kentucky—an address to the inhabitants of Louisiana and another to those of Canada.—In these papers it ap-

* Purchased by Congress and deposited in the Department of State.

pears, that besides encouraging those inhabitants to insurrection, he speaks of two generals at Kentucky who have proposed to him to go and take New Orleans, if he will furnish the expedition about three thousand pounds sterling. He declines advancing it, but promises that sum ultimately for their expenses—proposes that officers shall be commissioned by himself in Kentucky and Louisiana; —that they shall rendezvous *West* of the territories of the United States—suppose in Louisiana; and then making up a battalion, to be called the ——— of Inhabitants of Louisiana and Kentucky; and getting what Indians they could to undertake the expedition against New Orleans, and then Louisiana to be established into an Independent State, connected in commerce with France and the United States—that the two parties shall go into the Mississippi and co-operate against New Orleans. The address to Canada was to encourage them to shake off the English yoke—to call Indians to their assistance, and to assure them of the friendly disposition of their neighbors of the United States.

"He" (Genet) "said, he communicated these things to me, not as Secretary of State, but as Mr. Jefferson. I told him, that his enlisting officers and soldiers from Kentucky to go against Spain was really putting a halter about their necks, for that they would assuredly be hung if they committed hostilities against a nation at peace with the United States—that leaving out that article, I did not care that insurrections should be excited in Louisiana.—He had *about a fortnight ago* sent me a commission for Michaud as Consul of France at Kentucky, and desired an exequatur. I told him this could not be given;—that it was only in the ports of the United States they were entitled to Consuls; and that if France should have a Consul at Kentucky, England and Spain would soon de-

mand the same, and we should have all our interior country filled with foreign agents. He acquiesced, and asked me to return the commission and his note, which I did. But he desired that I would give Michaux a line of introduction for Governor Shelby. I sent him one, a day or two after. He now observes to me, that in that letter I speak of him only as a person of botanical and natural pursuits; but that he *wished the Governor to view him as something more—as a French citizen possessing his confidence.* I took back the letter and wrote another—see both."

In a subsequent statement Jefferson says, he "gave Michaux a letter of introduction to the Governor of Kentucky as a *botanist*, which was his real profession." *.

It is among the marked facts of this period, that having on the fifteenth of November repeated his demand upon Hammond as to the execution of the definitive treaty with Great Britain, Jefferson assured Genet of instructions having been given to "see that no military expedition be covered or permitted, under color of the right which passengers have to depart from the United States," to be made on St. Domingo.

Similar expeditions were undertaken from South Carolina and Georgia. In the former State an armed force was also levied under a French commission, but was suppressed by its legislature. In Georgia, a French legion was, in part, recruited by Clark with funds received from Genet. It was directed to rendezvous on the St. Mary, below which, on Amelia Island, a small French force had been landed, and was engaged in erecting works.—This party was to have made a simultaneous movement with the expedition from Kentucky, but was suppressed by the Governor of Georgia.

* Jefferson's Works, iv. 514.

Nor did the official demeanor of Genet towards the Government change. He still denied the powers of the President,—and ascribed them to Congress. An exequatur had been asked by him to a Consular commission incorrectly addressed.—He was informed, that "by the Constitution, all foreign agents are to be addressed to the President, no other branch of the Government being charged with the foreign communications." In reply, he stated, that 'the Constitution' was "not explicit, and as the functions attributed to the President relatively to the reception of foreign ministers appear to be only those which are fulfilled in courts *by the first ministers*, for their pretended sovereigns, to verify purely, and simply the powers of foreign agents accredited to their masters, and irrevocable by them, when once they have been admitted," he asked, "the better to fix the ideas of the French Council, that he would have the goodness to enlighten it with his knowledge and that of his learned colleagues." He was informed,—that the President "being the only channel of communication between this country and foreign nations, it is from him alone that foreign nations or their agents are to learn what is or has been the will of the nation; and no foreign agent can be allowed to question it, to interpose between him and any other branch of Government, under the pretext of either transgressing their functions, nor to make himself the Judge and final umpire between them."—"I am not therefore," Jefferson wrote, "authorized to enter into any discussions with you on the meaning of our Constitution or any part of it, or to prove to you, that it has ascribed to him alone the admission or interdiction of foreign agents. I inform you of the fact by authority of the President." The commissions were returned to him.—He again raised the ques-

tion, and at a Cabinet Council, it was decided that the form previously required "be insisted on." *

"Genet," Jefferson wrote to Madison, "by more and more denials of powers to the President, and ascribing them to Congress, is evidently endeavoring to sow tares between them, and at any event to curry favor with the latter, to whom he means to turn his appeal, finding it was not likely to be well received by the people." †

The maintenance of a numerous corps of agents, the charges of the vessels of war lying in the ports of the United States, and the expenses incident to these enterprises, had exhausted the funds at the disposition of the French Minister. To obtain new supplies, he wrote to Jefferson asking permission to anticipate the approaching reimbursements of the debt to France for the two following years.

His letter stated as the grounds of this application that the want of these funds had "suspended the supplies and enterprises of his agents. Two thousand seamen and soldiers, whom I support, are on the eve of wanting bread. The repairs of our vessels are at a stand. The indispensable expeditions of subsistence for our Colonies and France are suspended—as without doubt, you will form to yourself a just idea of all the branches of the service which will suffer, as long as this authority shall be withheld from me, I am persuaded, Sir, you will zealously second me in this negotiation."

Hamilton made a special report adverse to the application, on the grounds, that these amounts had been anticipated by payments to France, equal or nearly equal to the sums falling due in the next year—that the provi-

* Hamilton's Works, iv. 493, Dec. 3, 1793.

† November 17, 1793.

sion by law for the French debt only contemplated loans; that of these the sum unexpended was merely commensurate with a payment soon due on the capital of the French debt, that the acceptance of the bills of the French Minister would virtually pledge this fund, appropriated to another object; and that it would be unsafe to presume upon contingencies, or to enter into engagements to be executed, at distant periods, when the means of execution are uncertain."

This Report was made known to Genet in a letter of the same date with a reply to his application to remove the "Carmagnole" from the harbor of New York.

He availed himself of the occasion to reproach the United States with the continuance of a system calculated to provoke his country to "measures dictated by a just resentment, which would accomplish the wishes of those whose politics tend only to disunite America from France, the more easily to deliver the former into the power of the English."—He did not wait an answer to his application for funds, but drew instantly upon the Treasury His drafts being refused, an angry communication followed—Hamilton stating, that owing to his recent illness his "frame was so disordered as almost to unfit him for business," made a report vindicating the refusal.*

These flagrant offences against the peace and integrity of the Union, and against the dignity of the government had long warranted and demanded his dismissal. Twice the President proposed it.—Hamilton and Knox advised the measure.—Randolph objected to it.—Jefferson opposed it; opposed it notwithstanding his knowledge of Genet's concerted plans to involve the United States in War with Spain, and with Great Britain.—"I opposed

* Hamilton's Works, iv. 491.

it," he relates* "on these topics—France the only nation on earth sincerely our friend. The measure so harsh a one, that no precedent is produced where it has not been followed by War;" the early probability of his being recalled. Would it not be better to wait and see how the pulse of that body" (Congress) "new as it is, would beat. They are with us now, probably, but such a step as this may carry many over to Genet's side. Genet will not obey the order." No decision was made.

* Jefferson's Works, iv. 496, 7.

CHAPTER XCVII.

FREQUENT sessions of the Cabinet followed. The earliest decision made, was, as to the extent of the jurisdiction into the Sea. This arose upon the application of the French Minister. He was informed, that great diversity of opinion had existed—the greatest distance to which any respectable assent among nations had been given—being the extent of the human sight—estimated at upwards of twenty miles; and the smallest the utmost range of a cannon ball—usually a sea league,—that the character of our coast would entitle us to as broad a margin of protected navigation as any nation whatever. But that, indisposed to fix on the distance to which we may ultimately insist on the right of protection, without a conference with the powers interested in navigation, the distance of a sea league should for the present be so regarded. A Circular to this effect was ordered to be addressed to France, Great Britain, Spain and the Netherlands.

A letter was directed to the British Ambassador asking when an answer was to be expected as to the inexecution of the Treaty of peace. He replied that he had received no definitive instructions owing to the pressing and important events which had occurred in Europe. The French Minister was called upon to state, whether the prizes previouslv demanded to be restored had been

restored to their owners—if not, requiring it to be done, or that indemnification would be made, to be reimbursed by France. Genet replied, that it was not in his power to order the French letters of marque to restore these prizes —nor to consent to the indemnification—because no indemnity was due; the treaties and his instructions fully authorizing the arming in our ports, and because by the French Constitution and that of the United States, the Executive had not the arbitrary appropriation of the funds of the State—it resting only with the legislature "to renounce—under its responsibility to the people, the right he had been expressly instructed to maintain."

During these Cabinet Councils, the terms in which Congress should be addressed by the President in his opening speech, were the subject of most discussion.

An outline of the matters to be communicated was presented by the President,* another by Randolph—a third by Hamilton.

In deciding upon the language of this document there was no intrinsic difficulty. Though the word "Neutrality" was not seen in the Proclamation of April, the purpose of preserving "a fair neutrality in the present war" was explicitly announced by the Secretary of State in his official correspondence.† This view, it has been seen, was also taken by him in his private correspondence. The term was used by the President in his answers to public bodies.

At this Council, Randolph stated, "he meant that foreign nations should understand it as an intimation of the President's opinion that neutrality would be our interest."‡ Jefferson relates, "I declared my meaning to have been,

* Hamilton's Works, iv. 482.

† Jefferson to Pinckney, April 20, 1793.

‡ Vol. iv. 496, Jefferson's Works.

that foreign nations should understand no such thing;—that, on the contrary, I would have chosen them *to be doubtful*, and to come and bid for our neutrality."* Hamilton proposed, that it should state the facts as they were, and that "no explanation in the speech should yield, that the President did not intend that foreign nations should consider it as a declaration of neutrality, future as well as present; that he understood it as meant to give them that sort of assurance and satisfaction; and to say otherwise would be a deception."

Jefferson contended, that this view implied a right in the President to decide upon the effect of the guarantee in the treaty of seventeen hundred and seventy-eight, to which he declared the Executive incompetent.

Randolph stated, that the Proclamation was called in the addresses, and answers of the President, "a declaration of neutrality," which confirmed his opinion that the speech ought, (as it clearly might,) put this paper upon its true and satisfactory footing."†

* If such was his meaning, what does the letter to G. Morris, of date Aug. 16, 1793, *signed by him*, mean? "The President thought it expedient through the channel of a proclamation, to remind our fellow-citizens that we were *in a state of peace* with *all* the belligerent powers, that in that state it was *our duty neither to aid or injure any*, to exhort and warn them against *acts* which *might contravene* this *duty*, and particularly those of *positive hostility*, for the *punishment* of which the laws would be appealed to; and to put them on their guard also, as to the risks they would run, if they should attempt to carry articles of contraband to any."—Jefferson's Works, iii. 267.

† Among the "Anas" of Jefferson, the minutes of the incidents of these Cabinet Councils contain the most depreciating language as to Washington. He represents him as saying—"His main view was to keep our people in peace; he *apologized* for the use of the term neutrality in his answer, and justified it, by *having submitted* the first of them, that to the merchants (wherein it was used) TO OUR CONSIDERATION, and we *had not objected to the term*. He concluded in the end, that Colonel Hamilton should prepare a paragraph on the subject of the speech, and it should then be considered."—Could Washington have given a more conclusive reply, or decisive rebuke to Jefferson?

Under these circumstances Hamilton was directed to prepare a paragraph for the Speech.

This paragraph is in existence. After an expression of regret at the extension of the War, "implicating powers with whom the United States had the most extensive relations;" and the solicitude which it created as to its possible consequences, it states, that on the "one hand it appeared desirable, that no impressions should exist with any of the powers engaged in it, in reference to us, of a nature to lead to measures tending to interrupt or to endanger our peace—on the other, it was probable, that designing or inconsiderate persons among ourselves might, from different motives, embark in enterprises contrary to the duties of a nation at peace with other nations at war, and of course calculated to invite and produce reprisals and hostilities"—that under these considerations, he judged it advisable to issue a Proclamation, "declaring the disposition of the United States to observe a conduct 'friendly and impartial' towards the belligerent powers." "The effects of this measure, have, I trust, neither disappointed the views which dictated it, nor dis-served the true interests of the Country."

The following clause, prepared by Randolph, was preferred. "As soon as the War in Europe had embraced those powers, with whom the United States have the most extensive relations, there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace drawn into question by the suspicions too often entertained by belligerent nations. It seemed therefore to be my duty to admonish our citizens of the consequences of a contraband trade, and of hostile acts to any of the parties, and to obtain, by a declaration of the existing legal state of things, an easier admission of our rights to the immunities belonging to our situation. Un-

der these impressions, the Proclamation, which will be laid before you, was issued."

The speech next adverted to the Rules which had been adopted conforming to the treaties, and asserting the privileges of the United States; and urged the expediency of extending the legal code and jurisdiction of the Courts, so as to embrace cases arising upon these regulations, not provided for. The decision to restore the prizes which had been taken "within the protection of our territory or by vessels commissioned or equipped in a warlike form," was also stated.

This suggestion preceded an earnest admonition of the necessity of measures "of complete defence." "There is a rank due to the United States among nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times ready for war."

Among the measures of defence, besides an augmentation of the munitions of war—a new organization of the Militia was advised; and a provision recommended for supplying the means of studying the military art.*

* After stating, that *he opposed* the recommendation of a military academy "as *unauthorized by the Constitution*," Jefferson remarks, "I was happy to see that Randolph had by accident used the expression 'Our Republic' in the speech. The President however made no objection to it, and so, *as much as it had disconcerted him* on a former occasion with me, *it was now put into his own mouth* to be pronounced to the two Houses of Legislature." This is not the only offensive statement in this memorandum. He deliberately asserts—that Hamilton, laid down with great positiveness the position, "that the Constitution having given power to the President and Senate to make treaties, they might make a treaty of Neutrality which should take from Congress the right to declare war in that particular case, and that under the form of a treaty they might exercise any powers whatever, even those *exclusively* given by the

Efforts to restore peace with the Indians north of the Ohio were mentioned; and having failed, Congress were informed, that offensive operations against them had been directed, that relief had been administered to the Creeks and Cherokees, and that prosecutions had been instituted for violences committed upon them.

As a means of rendering tranquillity permanent, the establishment of an exclusive commercial intercourse with all the Indian nations, under the direction of the government, was proposed; each article of traffic having a fixed reimbursing price, without regard to profit.

As to the Fiscal operations, Hamilton's suggestions and language were adopted. Congress were apprised, that the settlement of the accounts between the United States and the Individual States had been completed by the Commissioners; that the payment of an instalment due to Holland had been prolonged for a term of ten years; that the Loan from the Bank had been reduced by the payment of a portion of the first instalment due to it, and a provision for the second was advised.

It was added, that "no pecuniary consideration is more urgent than the regular redemption and discharge of the public debt. On none can delay be more injurious or an economy of time more valuable." "The productiveness of the public revenues hitherto, has continued

Constitution to the House of Representatives."—Jefferson's Works, vol. iv. p. 498, 499.

On the 16th March, 1802, Jefferson (being President) signed a bill establishing a military academy, and in 1808 recommended its enlargement.—Military Affairs, vol. i. 228. His own opinion, that the Congress had no *original integral* power over commerce, but could enter into treaties, and the moment they were concluded, that a *jurisdiction over commerce springs into existence, superseding that of the States*, has been quoted. Vol. i. Jeff. 236. This was in reference to the Congress of the Confederation.

to equal the anticipations which were formed of it; but it is not expected to prove commensurate with all the objects which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; and it is hoped, that these may be made, consistently with a due regard to the convenience of our citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions, to obviate a future accumulation of burthens." But these wants, it was observed, ought not to preclude a repeal of the tax on the transportation of public prints, as the means of diffusing without restraint a faithful representation of public proceedings, and thus securing to the government, "the affections of the people, guided by an enlightened policy, its firmest resource." *

* On comparing the Speech with Hamilton's outline, it will be seen how far it was pursued,—"1. Proclamation. 2. Embarrassments in carrying into execution the principles of Neutrality—necessity of some auxiliary provisions by law. 3. Expectation of indemnification given in relation to illegal captures. 4. State of our affairs with regard to Great Britain—Spain and France—claim of GUARANTEE—propositions *respecting trade*. 5. Indian affairs—failure of Treaty—state of expedition under Wayne—prospects with regard to Southern Indians. 6. Prudence of additional precautions for defence, as the best security for the peace of the Country, (1. Fortification of principal Sea ports. 2. Corps of efficient Militia). 7. Completion of settlement of accounts between U. S. and Individual States. Provision for balances. 8. Provision for a Sinking fund. 9. Our revenues in the aggregate have continued to answer expectation as to productiveness, but, if the various objects pointed out, and which appear to be necessary to the public interest, are to be accomplished, it can hardly be hoped that there would not be a necessity for some moderate addition to them. 10. Prolongation of the Dutch Instalment by way of loan. 11. Provision for the second instalment due to Bank of U. S. 12. Provision for interest on the unsubscribed debt due the present year. Quære. 13. Communication of the State of cessions of Light Houses. The cession in various instances has not been entire. It has reserved a partial right of jurisdiction by process, consequently is not strictly conformable to law. 14. Commissary to receive, issue, and account for all public

The tone of this State paper compared with that of those which preceded it, shows the influences under which it was modified.

The terms in which the foreign relations of the United States should be referred to were also much discussed.

The draught of a message as to the relations with France and England was prepared by the Secretary of State, and submitted to the President. It appears from a statement of Jefferson, that this draught contained a strong contrast between the conduct of those nations; —acknowledging the "favors ancient and recent from France," and censuring in terms of severity the conduct of Great Britain—that this was objected to by Hamilton on the ground that it "amounted to a declaration of war"—that "the offers in commerce made us by France were the offspring of the moment" and temporary— "that he could demonstrate, that Great Britain showed the United States more favor than France."

"In complaisance to him," Jefferson states,* "I whittled down the expressions *without opposition*—struck out that of 'favors ancient and recent' from France—softened some terms and omitted some sentiments respecting Great Britain. He still was against the whole, but in-

stores would conduce much to order and economy. The productiveness of the public revenue hitherto has continued to equal the anticipations which were formed of it, but it is not expected that it will prove commensurate with all the objects which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be required, but these, it is hoped can be made consistently with a due regard to the convenience of our citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions for the public service, to avoid a future accumulation of burthens." This paper, together with a draft of a Message on the relations with France and England, exist in Hamilton's autograph—among Washington's MSS.—Dept. of State—vol. 117, pages 167 to 172—see H.'s Wks., iv. 485–6.

* Jefferson's Works, iv. 500.

sisted, that at any rate, it should be a secret communication, because the matters it stated were still depending."

"These were—*first;* the inexecution of the treaty—*second,* the restraining our commerce to their own ports and those of their friends. Knox joined Hamilton in every thing." Jefferson relates, that Randolph advised the publication of the correspondence as to the inexecution of the treaty, but the withholding of that respecting the restrictions on commerce; but, that *he* urged the publication especially of what related "to the inexecution of the Treaty of Peace; adding also the documents respecting the stopping our corn." "The President took up the subject with more vehemence than I have seen him show, and decided without reserve in favor of the publication of the whole."

A letter to him from the President shows, that, although he was in favor of publication, he had not "decided without reserve." "There can be *no doubt* since the information which has come to hand from our ministers at Paris and London, of the *propriety of changing the expression of the message as it respects the acts of France.* And if any bad consequences, which, I still declare, I see no cause to apprehend, are likely to flow from a *public* communication of matters relative to Great Britain, it might be well to revise the thing again in your mind, before it is sent in, especially as the Secretary of the Treasury has more than once declared; and has offered to discuss and prove, that we receive more substantial benefits (favors are beside the question with any of them because they are not intended as such) from British Regulations with respect to the commerce of this country, than we do from those of France; antecedently, I mean, to those of any recent date. We should be very cau-

tious, if *this be the case*, not to advance any thing that may recoil, or take ground we cannot support."

The reply of Jefferson pressed the publication, urging, that if secrecy were enjoined, it would not be observed; and "it was only in cases when the public good could be injured, and *because* it would be injured, that proceedings should be secret. In such cases, it is the duty of the Executive to sacrifice their personal interest (which would be *promoted by publicity !*) to the public interest."

That "the negotiations with England were *at an end.* If not given to the public now, when are they to be given?—and what moment can be so interesting?" "If any thing amiss should happen from the concealment, where will the blame *originate*, at least? It may be said indeed, that the President *puts it in the power* of the Legislature to communicate these proceedings to their *constituents;* but is it more their duty to communicate them to *their* constituents than it is the President's to communicate them to *his* constituents? And if they were desirous of communicating them, ought the President to restrain them by making the communication confidential? I think no harm can be done by the publication, because it is impossible, England, after doing us an injury, should *declare* war against us, merely because we tell our constituents of it; and, I think, good may be done, because while it puts it in the power of the Legislature to adopt peaceable measures of doing ourselves justice, it prepares the minds of our constituents to go cheerfully into an acquiescence under these measures, by impressing them with a thorough and enlightened conviction that they are founded in right." Additional motives were suggested of proving our impartiality by showing the disagreeable things which had passed, as well with England, as with France.

Some of the motives of Jefferson may be inferred from this paper, combined with other circumstances.

The conduct of Genet had much inflamed the public mind. It was important to change its direction by disclosing the correspondence with Hammond.

His relations with Genet, though only publicly surmised, had subjected the Secretary of State to serious suspicions. These suspicions, his defence of American rights in opposition to the claims of England, he might hope, would counterpoise. The leading measure of his policy, commercial restrictions against Great Britain, he had resolved at this time to bring forward. It was important by this disclosure, to induce the "Legislature to adopt" (as he termed them) "*peaceable measures* of doing ourselves justice."

The course of Hamilton is consistent with his whole character. He determined to speak of the proclamation as it was. A similar regard to truth influenced him on the question of publicity.—He could not have consented to the promulgation of Jefferson's statement respecting the Definitive Treaty—knowing it to be erroneous; and, it may well be supposed, while he saw France commencing an attack on neutral rights, and violating through her Ambassador the Sovereignty of the United States, that he would refuse to concur in the efforts of the Secretary of State, by a misdirection of the President's influence, to endanger the neutral policy of which he was the author—to give a false tone to public opinion, and to aid in the adoption of a system of restrictions on commerce, pregnant with most serious evils.

He feared that "bad consequences would flow from a public communication," and the influences it produced on the action of Congress proved his fears not without foundation. There were also other and very cogent reasons

why neither the correspondence with Hammond nor with Genet should have been published.

In his vindication to Hammond of the Courts of Virginia from their alleged breaches of the treaty, Jefferson excuses them as being inferior Courts, observing "till there has been a denial of right through *all* the tribunals, there is no ground for complaint." This very doctrine of appeal here asserted was retorted by Great Britain in defence of the recent illegal condemnations in her Vice-Admiralty Courts.

In his letters to Genet, Jefferson avowed, that "by the law of nations, Great Britain had an undisputed right to take French property in our vessels." Correct as this position was, a Secretary of State should have been the last person unnecessarily to have avowed it, at a time when the negotiation of a commercial treaty with that country was contemplated, and when the United States were desirous in this particular to modify the operation of that law. On both points silence was the true policy. Yet having thus committed the Government, Jefferson deliberately urged the publication of these commitments.

The mode preferred by him and by his immediate partisans of keeping up an embarrassing altercation with Great Britain was warmly disapproved by Hamilton. It was felt that the relations with that power were uncertain, and that it was due to the character of the nation and to that of Washington to take a position which could not be mistaken. With this purpose, on the day after the meeting of Congress, he submitted to the President the draft of a message, prepared at his request, but which was not communicated. It was in these terms:

"Gentlemen:—In my Speech * to the two Houses of Congress at the opening of the Session, I urged the ex-

* Dec. 3, 1793.

pediency of being prepared for war as one of the best securities to our peace. Events which seem daily to be unfolding themselves press still more seriously upon us the duty of being so prepared, indicating that the calamities of war may, by a train of circumstances, be forced upon us, notwithstanding the most sincere desires and endeavors to secure and cultivate peace.

"I cannot therefore withhold from Congress my conviction that the United States ought without delay to adopt such military arrangements as will enable them to vindicate with vigor their rights, and to repel with energy any attacks which may be made upon them; and that it may be advisable to add some dispositions calculated to exempt our commerce from being the prey of foreign depredation.

"The blessings of peace are in my view so precious, that they will continue to engage my most zealous exertions for their continuance.—Under these impressions, the suggestions I have made are influenced as much by a persuasion of their tendency to preserve peace, as by a sense of the necessity of being prepared for events which may not depend on our choice."

The third Congress assembled on the second of December. Under the new apportionment the number of the Representatives was increased, the increase being chiefly to the States in opposition to Hamilton.

This gain, together with the changes which had taken place, gave to the Democratic party an ascendency in the House of Representatives, confirming Jefferson's rejoicing expectations. "In this State," (Virginia,) he wrote, "the election has been triumphantly carried by the Republicans, their antagonists having got but two out of eleven members, *and the vote of this State can generally turn the balance.*" *

* Jefferson to T. M. Randolph, Nov. 16, 1792. Randall, ii.102.

This result was shown in the choice of Speaker. Muhlenburgh, a member from Pennsylvania, having prevailed over Sedgewick, by ten votes.

The Senate, had also undergone a similar change. Although some of its members had not yet taken decided party ground—yet of the Senators *elect*, there was reason to suppose that the opposition had a majority of one.

The Speech of the President was followed by a Message, bearing date the *fifth* of *December*, communicating the Proclamation of Neutrality, and the Rules established in pursuance of it; and soon after, by another, in which a view was taken of the Relations of the United States with France and Great Britain.

"The Representative and Executive bodies of France," were stated, "to have evinced a friendly attachment to the United States; to have given advantages to their commerce and navigation, and to have made overtures for placing those advantages on permanent ground." A Decree of the National Assembly "subjecting vessels laden with provisions, to be carried into their ports and making enemy's goods lawful prize in the vessels of a friend, contrary to the treaty," though revoked at one time as to the United States, was stated to have been since extended to them, and to have been the subject of a representation by the American Ambassador.

The conduct of Genet was then adverted to—its tendency to involve the United States "in a war abroad, and discord, and anarchy, at home" was stated. The measures to counteract his efforts were mentioned, and his acts were represented to have been endured "from sentiments of regard to his nation, from a sense of their friendship," and from a conviction that he would be recalled. The Message added, that in the mean time, the

stipulations of the treaty had been respected, and pursued, according to what the President deemed their true sense, and that no act of friendship had been withheld which their affairs called for, and which justice to others permitted to be performed;—that rather than employ force for the restoration of Vessels which the United States were deemed bound to restore, when restitution could not be made, compensation had been promised.

Measures had been taken to ascertain what vexations and spoliations the American commerce had suffered, the result of which would, when received, be communicated. As to the orders of the British Government to restrain the Commerce in Corn and provisions, the instructions to the American Ambassador were laid before Congress, with copies of the correspondence which had passed with the resident British Minister, both on this subject and in relation to the non-execution of the Treaty of Peace.

The state of the negotiations with Spain was reserved for a confidential message, for the reason that they were yet pending.

With the documents relative to Great Britain, part of the correspondence with Genet, (though supposed by the President to be the whole,) was submitted to Congress, together with the exposition of his conduct contained in the letter of the sixteenth of August from the Department of State to the American Envoy in France.

The principal paper not included in this correspondence is the official letter of Genet, of September the eighteenth, charging Jefferson with having impeached to him the other members of the government, and with a violation of his professed friendship. From the effect which the disclosure of this letter must have had upon Jefferson, the strength of his motive to withhold it may be inferred. The explanation given of its being withheld is

thus;—"Note. This letter was among several others which were received at the Secretary of State's office in Philadelphia, there formed into a packet, September thirteenth, addressed to him, and forwarded by post to Virginia. By some accident of the Post they did not get on to him in Virginia, were returned to Philadelphia, and there received by him only the *second* day of December." * As the message communicating the residue of the correspondence bears date the fifth of December, it is evident that this explanation is insufficient.

Another paper omitted,† was a letter from Genet of the twenty-seventh of September, of which omission the motive is obvious. It communicated copies of two decrees of the National Convention previously mentioned;—one of the ninth of May, directing French armed vessels to carry into the ports of France, neutral vessels loaded with provisions and bound to enemies' ports;—another of the twenty-third of May—declaring that the vessels of the United States are not comprised in the regulations of the previous decree.

The letter of Genet communicating this latter decree announces as its motives, "the scrupulous faith with which France is disposed to observe, in its utmost extent, the treaty which unites her with the United States, and her thorough confidence the Americans will not abuse their privilege by carrying to her enemies those produc-

* State Papers, F. R., i. 174. On the 5th Nov., 1793, Jefferson states to Genet that he had *not* "received any of Genet's letters written since his (Jefferson's) departure from Philadelphia till the 24th ult." and most of them "*only last night.*" State Papers, F. R., i. 246.

† State Papers, F. R., i. 243—note by Editor. "The following documents, not found among those communicated with the President's message of Dec. 5, 1793, were probably *accidentally* omitted to be transmitted to Congress at the time."

tions by which they ought to assist in defence of a cause as much their own as hers." He then alludes to the British Instructions of June and states, "The French Republic expects, Sir, that the government of the United States, as well from attachment to her as from regard to its own commerce, and from the dignity it owes itself, will hasten to take the most energetic measures to procure a recall" of them. "If the measures taken are insufficient or fruitless, and your neutrality can only be serviceable to the enemies of France, and unfortunate for herself, you will doubtless perceive, that she will exercise a very different right in taking measures to prevent a consequence so injurious to her."

A disclosure of these extorted boons, accompanied with insulting admonitions and a direct menace of war, were too wounding to the pride of the United States to promote Jefferson's views upon the counsels of Congress. Though this letter was in the same package with a decree opening the French colonial ports to American vessels, which decree was submitted by Jefferson to Congress, it was withheld by him.

Committees of each House were, according to the established usage, appointed to address the President in reply to the Speech. That of the Senate opened with a warm congratulation on his unanimous re-election, "as an event in every way propitious to the happiness of the Country," as a distinguished tribute to his virtues and abilities, and as another proof of the discernment and constancy of the sentiments and views of the American people.

It echoed the language of the Speech as to the Proclamation of Neutrality—adding, that they contemplated it with pleasure, and gave it their hearty approbation;—that they deemed it "a measure well timed and wise,

manifesting a watchful solicitude for the welfare of the Nation, and calculated to promote it."

The address of the House of Representatives was from a Committee of which Madison was Chairman.

His position was not without embarrassment. His connection with the Gazette, which had not only impugned the measures of the President, but had calumniated his motives; and his having openly condemned the proclamation of Neutrality as an abuse of the powers confided by the Constitution, to the Executive, indicated his real sentiments.

But the unanimity of Washington's re-election, the unequivocal public approbation which the Proclamation had received,—the indignation manifested towards Genet, warned him of the danger of arraying his party in terms of open opposition. Perhaps, its increased strength in the National Legislature, may have excited some hope that the President might be swayed from Hamilton's policy.

In every view, it was deemed safer to wear the mask, and to exhibit his strength in covert hostile acts rather than by open offensive words.

The address expressed an earnest felicitation on the President's re-election, "approbation of the" vigilance with which he had "guarded against an interruption" of peace by his proclamation—admonishing the citizens of the consequences of illicit acts, and promoting by "a declaration of the existing legal state of things" an easier admission of their right to the immunities belonging to their situation.

It also concurred with the Speech in relation to its other topics. This address was reported to the House, and received its unanimous approval.

The President replied, that it was "truly gratifying to

learn that the proclamation has been considered as a seasonable guard against the interruption of the public peace."

It must ever be regarded as one among the many remarkable instances of Madison's change of opinion, that, hostile as he is shown to have been to this neutral policy, he was, previous to his collusions with Jefferson, its explicit advocate. "A general war in Europe," he wrote soon after the Constitution had been submitted to the consideration of the American people,—"a general war in Europe will open a new scene to this Country—a scene which may not be contemplated without pleasure, if our humanity could forget the calamities in which it must involve others; and, if we were in a condition to *maintain the rights and pursue the advantages of neutrality.*" *

* Madison to Gen. Gates, Dec. 11, 1787.

CHAPTER XCVIII.

Among the motives which had influenced the opposition to withhold all censure of the administration, one of the most cogent was the position of its chief.

Jefferson, it is seen, had been compelled to give his sanction to the measures against which that party had most loudly clamored. His name was affixed to the vindication of the policy which had been pursued towards France. No discrimination could be made between him and the Executive, without producing a confirmation of the imputations of Genet, that he had played false to his own government, that he had "held a language official and a language confidential"—rebuking in the former, the Minister of France for the indignities which, in the latter, he had stimulated him to offer to the President.

An open breach with Washington was to be avoided. Although Jefferson had refused to dismiss Freneau in deference to the President's feelings, stating, as the basis of this refusal that his paper had saved the Constitution—yet the longer forbearance of the Chief Magistrate was doubtful. Important as the influence of this Gazette was deemed by him, Jefferson now changed his purpose, and, in anticipation of his own retirement from office, the National Gazette was discontinued.

All direct responsibility was shunned; and, convinced

by the recent exhibitions of public opinion, that they had taken false ground, the opposition resolved, as the only mode of retrieving themselves, to appear to follow the current of the national feeling.

But, while these considerations swayed the action of this party in Congress, it did not cease to manifest, in every other quarter, its hostility to Hamilton.

When the legislature of Virginia assembled, late in the month of October, a Resolution was brought forward approving the Proclamation of Neutrality; but a motion to discharge the House from all consideration of this subject was sustained by more than one-third of its members.

It has been perceived, that in his letter to the President announcing his intention to resign, Hamilton avowed his purpose to invite at the ensuing session of Congress a more deliberate inquiry into his official conduct.

This intended resignation was known in Virginia. Defeated as the leaders of the opposition had been in their efforts to impeach his integrity, they felt the importance of some manifestation of opinion in their favor, and with this view, meetings were held in several parts of that State, to approve the inquiry instituted by Madison and Giles. At these meetings resolutions passed, asserting, "that there was strong reason to suspect that a payment ordered to France was without necessity withheld, to her great detriment; and that this Country has incurred great loss thereby from the *double* interest which a large sum bore for several months,"—an allegation which had been completely disproved.

Hamilton now carried his purpose into effect, and regardless of the ascertained majority against him in the House of Representatives, defying the "revision" of the decision of the previous Congress Jefferson had monaced, addressed the following letter to the Speaker:

"Treasury Department, Dec. 16th, 1793.—Sir: It is known that in the last session, certain questions were raised respecting my conduct in office, which, though decided in a manner most satisfactory to me, were nevertheless unavoidably, from the lateness of the period when they were set on foot, so accelerated in the issue, as to have given occasion to a suggestion, that there was not time for a due examination.—Unwilling to leave the matter on such a footing, I have concluded to request of the House of Representatives, as I now do, that a new inquiry may be, without delay, instituted in some mode, most effectual for an accurate and thorough investigation; and I will add, that the more comprehensive it is, the more agreeable it will be to me.

"I cannot, however, but take the liberty of observing to the House, that a like plan to that which was pursued in the last Session, can never answer the purpose of a full and complete inquiry, while it would lay on me a burthen, with which neither the proper discharge of the current duties of my office, nor the present state of my health is compatible. The unfavorable effect on the business of the Department of the very considerable portion of my time which was engrossed by the inquiry of the last Session has not yet entirely ceased."

This letter being laid before the House, Giles moved a series of Resolutions, and proposed the appointment of a Committee of Inquiry.

It was deemed of the first importance by Hamilton's enemies to stimulate public prejudices against him; and with this purpose, a dismissed clerk from the Treasury Department of the name of Francis, previously referred to, was prompted to circulate a charge, that the Secretary had been engaged in a speculation for the purchase of an officer's certificate.

This tale, as has been stated, had been used to prejudice him with the President at an important moment. Soon after the exposure of Genet's conduct, in order to divert public attention, and to draw Hamilton into a compromise, menacing letters were written to him.

To aid this attempt upon his character, a lawyer was sent from Philadelphia to New York to obtain evidence of the charge, who mentioned, that it was intended to be brought forward at the next Session.

As soon as this purpose was made known to Hamilton, indignant at the vile means resorted to by his adversaries, he published a letter, inviting his accuser to substantiate the accusation.*

The National Gazette did not omit this opportunity of indulging its venom.

To give form to this accusation, which had before been vague, a pamphlet was distributed with the signature of Francis, and two days after Hamilton's letter to Congress requesting an investigation into his conduct, a petition from this person, addressed to the Speaker, was laid by him, before the House of Representatives.

It charged the Secretary of the Treasury and other of the officers in his Department, with a combination to

* "ALBANY, Oct. 1, 1793. Contemptible as you are, what answer could I give to your last letter? The enclosed is a copy of what will shortly appear in one of the Gazettes of the City of New York.

"One Andrew G. Francis, late a clerk in the Treasury Department, has been endeavoring to have it believed, that he is possessed of some facts, of a nature to criminate the official conduct of the Secretary of the Treasury—an idea to which, for obvious reasons, an extensive circulation has been given by a certain description of persons.

"The public may be assured, that the said Francis has been regularly and repeatedly called upon to declare the grounds of his suggestion, that he has repeatedly evaded the inquiry, that he possesses no facts of the nature pretended, and that he is a despicable calumniator."

evade the payment of warrants issued by the late board of Treasury. From this petition it appeared, that a letter had been previously written by Francis to the President, complaining of a denial of justice.

This memorial was referred to a select Committee;* and, on the twenty-ninth of December, a Report was made, in which, after setting forth the facts, it is stated, that the Committee were "of opinion, that the reasons assigned by the Secretary of the Treasury, for refusing payments of the warrants, which he had constantly done, are fully sufficient to justify his conduct; and that the Secretary and the other officers of the Treasury merit applause for their conduct in the whole course of this transaction, that, at the request of the Secretary of the Treasury, the committee made particular inquiry into the charge against him relative to the purchase of the Pension of the Baron de Glaubeck, and are of opinion that it is wholly illiberal and groundless." †

* Smith of Maryland, Giles, Findley, Dayton and Coffin.

† It will hardly be credited that Jefferson should have permitted himself to have recorded the following false accusation for after times:

"June 12th, (1793). BECKLEY tells me that *Klingham has been with him to-day* and relates the following fact.—A certificate of the old Congress had been offered at the Treasury and refused payment, and so endorsed in red ink, as usual. This certificate came to the hands of Frauncis (the *quondam* clerk of the Treasury, who, on account of his being dipped in the *infamous* case of the Baron Glaubec, Hamilton had been obliged to dismiss to *save appearances*, but with an assurance of all future service; and he accordingly got him established in New York.) Francis wrote to Hamilton that such a ticket was offered him —but he could not buy it unless he would inform him, and give him his certificate that it was good. Hamilton wrote him a most friendly letter and sent him the Certificate. He bought the paper, and came on here, and *got it recognized*, whereby he made twenty-five hundred dollars. *Klingham* saw both the letter and certificate."—Jefferson's Works, vol. iv. 488. It appears from a copy of a letter of Jefferson to him, that this Francis had an interview with him, and requested of him a loan of money!!

The facts which gave rise to this last calumny are found in a letter to the widow of General Greene, whose reply expressed the strongest acknowledgment for money loaned and other acts of kindness rendered to her during her distress, and enclosed an affidavit wholly disproving it.*

The reaction of public feeling produced by the promulgation of the fact, that Genet had threatened to appeal from the President to the people, created in the breast of Jefferson, the deepest alarm. He had strenuously opposed its disclosure at successive Cabinet Councils.†

If doubts could be raised as to the fact, the pause would give time for the operation of the measure he was about to bring forward.

It has been seen that Genet had openly denied the charge.

On the twenty-sixth of November, a letter was written to Hamilton by Rufus King, communicating his intention and that of the Chief Justice of the United States, to publish a particular statement of the evidence and circumstances of the transaction. This purpose was publicly announced.

On the sixteenth of December, Genet enclosed to Jefferson a requisition on the Attorney-General to prosecute these distinguished public officers for a libel in making this charge, which he requested should be laid before the President.

Two days after, Jefferson, too much in Genet's power to refuse him any thing, submitted to Washington draughts of letters, to be signed by him, giving instruc-

* Hamilton's Works, v. 563.

† Jefferson's Works, iv. 490.

tions as to this prosecution. He then wrote to Randolph* that "the President thinks it incumbent on him to recommend it specially on the present occasion, as it concerns a public character peculiarly entitled to the protection of the laws." He apprised Genet of his obedience to his wishes. Randolph declined commencing the suit, stating that the prosecution could not be sustained.

It was not the least remarkable circumstance of this occurrence, that Jefferson should have permitted such a reference to be made, and should have prepared these instructions, thus countenancing a prosecution for a libel founded on the denial of Dallas, after his own official reply to Genet "that it was perhaps immaterial whether the declaration was made to the President or to another person," after his confidential assurance to Madison, "*that it was a fact*," after his report to the President of the tenth of July previous, that Dallas had mentioned to him, "particularly his" (Genet's) "declaration, that he would appeal from the President to the People!" How Washington's sanction was obtained is not understood.

Deeply wounded and justly incensed at the position in which they were placed, Jay and King addressed a joint letter to the President, complaining of the course which had been taken; and requiring of him as an act of justice to direct the Secretary of State to communicate to them a copy of his report of his interview with Dallas, with permission to make it public.

This unexpected, but perfectly justifiable, indeed, unavoidable demand, produced great embarrassment. Hamilton desirous to shield the President, but, at the same time, resolved that the truth should not be withheld, advised him to reply in terms which would not admit the

* Jefferson's Works, iv. 97, ed. 1854.

injustice with which he was charged, but to order a copy of the report to be communicated.

Knox, fearful of a rupture, proposed a conciliatory interview.

Jefferson and Randolph, whose conduct had been commented upon in the joint letter, with not a little severity, labored to influence the President to reply in terms that would justify his own and their conduct. It resulted in an arrangement by which Washington gave to the injured parties a copy of the Report, and their letter impugning his conduct, was burnt in his presence.

Thus, this attempt to produce an open schism between the President, the Chief Justice of the United States and a distinguished Senator, and to make him a party to a groundless prosecution of them, was defeated.

Having failed, through Hamilton's precautions, in their efforts to involve the Country in War, the opposition now sought to attain their object in a mode which they believed would enlist with them all the public prejudices, and enable them to direct those prejudices against the administration.

It has appeared, that after the Report of a Select Committee of the House of Representatives recommending a *general navigation act*, the consideration of the commercial system to be adopted by the United States was referred to Jefferson.

As he had previously recommended countervailing regulations, this reference must have been ordered in the expectation that such a policy would be advised.

The reference was made on the twenty-third of February seventeen hundred and ninety-one, a few days before the expiration of the First Congress.

This subject was not mentioned in the President's speech at the opening of the Second Congress.

Jefferson had, during the intervening recess, been much occupied in digesting a view of the commercial relations of this country. This view he enclosed to the President on the twenty-third of December seventeen hundred and ninety-one in the form of a comparative table.—A copy of it, as relating to a subject, "whereon they had differed in opinion," was also communicated by him to the Secretary of the Treasury, and to the *several foreign ministers* at Philadelphia.

It was not submitted to the House of Representatives, as mentioned by Jefferson in a letter to the Speaker, because "it was thought possible at that time, that some changes might take place in the existing state of things which might call for corresponding changes in measures."*

Under an opinion, expressed by him, that a further suspension of proceedings, for a time, might be expedient, he proposed to retain his Report until the Session which commenced in seventeen hundred and ninety-two.

During that session, he informed the House, that the changes which had been contemplated had not taken place, and expressed his readiness to deliver his Report. This communication was referred. But, on the twenty-third of February seventeen hundred and ninety-three, he advised, that it should lay over till the next session, "as material alterations in the Report might be necessary, and it might have an unfriendly effect on the proposed treaty with the Western Indians."—Two days after, a Report was made by *Giles*, that it was *not expedient* to call for his Report during that session. Yet, as to this delay in making this Report, Jefferson has left a posthumous statement, that it proceeded from Hamilton's

* Jefferson's Works, iii. 210.

interposition with him—which is imputed to his desire to prevent the collision to which the discussions with Hammond on the breaches of the treaty of peace gave rise!

The time of making this Report rested solely with Jefferson. His suspicion of the motives of Hamilton's alleged interposition with him he professes to have entertained in March seventeen hundred and ninety-two.

Why, under the influence of such a suspicion, did he defer making his Report at the following session; and how did it occur that Giles, a willing instrument, recommended further delay?

Although Jefferson avowed to Congress his opinion, that it was expedient that this Report should be deferred to another Session,* and although such expediency proceeded on the supposition of a possible change in the policy of Europe, he was unwilling to lose the benefit of its effect in exciting discontent.

With this purpose, an abstract statement of the restrictions and prohibitions imposed by Great Britain on American Commerce had been printed in the National Gazette,† followed by angry invectives against that Nation.

From all the circumstances it may be inferred, that Jefferson's studied delay proceeded from Hamilton's declaration in the Cabinet, that he could disprove his statement, from an apprehension that a majority of Congress was hostile to his views, and from a fear of defeat.

The party of which he was the chief, was now dominant in the popular branch of the government, and he hoped would sustain him. The recent provocations of England also warranted the belief, that the time had arrived for its promulgation.

* Nov. 1792. † Aug. 22, 1792.

To prepare the way, a series of Essays were addressed to the people to kindle their passions against Great Britain, while, to give a more imposing effect to the intended measures, the Legislature of Virginia acted in concert.

After an untrue preamble, that the definitive treaty had "*in every instance*" been complied with on the part of the United States, and had been violated by Great Britain; and that "the citizens of the Commonwealth had been unable to learn whether there was any prospect of a future compliance" with the treaty on the part of the government, a Resolution was passed, instructing the Senators of the State, "to inquire into and report such measures as had been adopted by the Executive to obtain complete compliance with the treaty, with the answers of Great Britain; and the probability which existed of a speedy and complete compliance on her part."

Prompted also by a recent decision of the Federal Court, sitting at Richmond, in favor of British creditors, they were enjoined "to endeavor to effect such measures consistent with *good faith* as would suspend the operation and completion of the fourth article of that treaty," until the United States should be assured of a satisfactory performance by Great Britain.

The policy of this procedure had, it has been seen, been indicated by Jefferson to Madison,—"to soothe the friendly nation by strong commercial retaliations against the hostile one—pinching their commerce." *

With such avowed design, Jefferson now † laid before the House his REPORT "On the nature and extent of the Privileges and Restrictions of the COMMERCIAL intercourse of the United States with Foreign Nations, and the meas-

* Infra. Jefferson to Madison, Sept. 1, 1793.

† Dec. 19, 1793.

ures which he should think proper to be adopted for the improvement of its commerce and navigation."

This document was accompanied with an explanatory letter, in which it was mentioned, that it had been confined to those Countries with which the United States had a commerce of importance, and to the articles of American produce which had a sensible weight in the scale of exports, which were "sometimes grouped together according to the degree of favor or restriction with which they were received in each country, and expressed, without detailing the exact duty levied on each article, in general terms."

The recent proposal of France to enter into a new treaty of Commerce on liberal principles—an ordinance of Spain rendering New Orleans, Pensacola and St. Augustine, free ports to nations in treaty; and the late depredations on American Commerce are referred to; but, as this condition of things was uncertain, the Report was framed so as to be adapted to a settled state of things, the summer of seventeen hundred and ninety-two.

In this State paper, the aggregate of the *exports* to those European powers and their American possessions, with which the United States had the chief commercial intercourse, was stated a little to exceed nineteen and a half millions of dollars—of these, Spain and the Netherlands received each a tenth—France about a fourth, and Great Britain nearly one-half.

Of the twenty millions of *Imports*, those from Spain and Denmark were about one-sixteenth—from France a little exceeding a tenth, while those of Great Britain amounted to nearly four-fifths of the whole.

Of the American *tonnage*, the trade with Great Britain employed *a sixth*—that of Spain and the Netherlands *one-fourth*, and that of France nearly *one-half*.

By all of these powers, heavy duties were charged on American productions. By some, a part of those productions was prohibited.

Inaccurate as this representation is, it showed that the trade with Great Britain enjoyed as many advantages as that with other countries.

The Navigation, it stated, with Spain and Portugal was obstructed.—France admitted in American vessels all foreign goods which were admitted in her own or other vessels, with the exception of tobacco not American, and a participation with her in the carriage of American whale oil and tobacco, the latter paying an extra duty greater than its freight. The naturalization of American vessels permitted by its former government was revoked.

Great Britain prohibited American vessels, even in her commerce with the United States, though purchased and navigated by her own subjects; and no article not of their production was admitted to her ports in Europe.

Additional grounds of complaint were, that the right of trading to those ports depended on annual proclamations, subject to be recalled; and that American vessels, paid in her ports, except London, heavier Light and Trinity duties than British ships.

Of the exports to Great Britain a very large proportion were for re-exportation, and subject, "to the useless charges of an intermediate deposit and double voyage," while France and her colonies consumed all they received.

The contrast in the West India Commerce was alleged to be greater;—American vessels and commodities being admitted as freely as those of France, with permission to bring away rum and molasses; while Great Britain, though permitting the export of other and more valuable articles,

confined the trade with her West Indies to her own bottoms.

The corrective policy was then suggested.—Either, efforts to induce reciprocal duties, or, where unequal were retained, compensating advantages. Where reciprocity was refused, then the proper resort was to "counter prohibitions, duties, and regulations;" the importance of which to the protection of their navigation was specially urged—else, he said, "it will be disarmed of its defence, its productions will be at the mercy of the nation which has possessed itself exclusively of the means of carrying them, and its politics may be influenced by those who command its commerce."

The resort to countervailing duties, making a temporary distinction as to the Colonial trade, was urged, in despite of its inconveniences, as a mean of ultimately triumphing over the selfish systems of other nations. It was added, that France had "of her own accord, proposed to negotiate a new treaty on fair and equal principles," which "her internal disturbances had hitherto prevented;" and that "proposals of *friendly* arrangements had been made on our part to Great Britain, but her trade being already on as good a footing in law and a better in fact than the most favored nation," she had "not as yet discovered any disposition to have it meddled with." "We have no reason," he said, "to conclude that such arrangements would be declined by such other nations with whom they would be important. In the mean while, it would rest with the wisdom of Congress to determine, whether, as *to those nations*, they will not surcease *exparte* regulations on the reasonable presumption that they will concur in doing whatever justice and moderation dictate should be done."

A Report, containing a copy of a Decree of the National Convention opening the French West Indies to

American vessels, free of duties, and a copy of the ordinance of Spain previously alluded to, was subsequently made by him. It also mentioned an Act of Parliament which substituted for the annual proclamation, as to the intercourse with the West Indies, a permanent law. This law had been enacted in Seventeen hundred and ninety-one, but had escaped the attention of the authors of this report.

This supplementary State paper dated the thirtieth of December Seventeen hundred and ninety-three, and expected to have much influenced the deliberations of Congress, was intended by Jefferson to be his last official act. But one more remained to be performed, however reluctantly.

In pursuance of the purpose, previously ascribed to Genet by Jefferson, of sowing tares between the President and Congress, the French Minister resolved to make public his instructions. Copies of them he enclosed to Jefferson, with an intimation of his intention to proceed in the same manner successively with other papers, and with a request he would distribute them among the members.

This letter is dated the twentieth of December. It was withheld by Jefferson, until late on the twenty-eighth, being Saturday, when hoping to escape the responsibility of noticing so offensive a procedure, Sunday intervening, and his retirement to be on Tuesday, he communicated it to the President.

Washington instantly wrote to him on the twenty-eighth. "I have received with vexation the enclosure you have just sent me from the French Minister. I pray you to take the opinion of the Gentlemen upon the measure proper to be taken in this business. Every day more and more discovers the intention of this agent to perplex this

government, and to scatter thick and wide the seeds of dissension. Saturday afternoon." *

The communication of Genet was submitted to the Cabinet the next day, (Sunday,) called specially to act upon it, and a letter was framed under their supervision. Finding some delay, the President wrote to Jefferson, on the day of his retiring from office. "It is my wish that the result of the determination on Mr. Genet's request may go to him with *your signature*, and of this date. It was for this reason I aimed at a decision on it Sunday, or yesterday." Thus enforced, the following reply was made by Jefferson to Genet, on the thirty-first of December. "I have laid before the President of the United States your letter of the twentieth instant accompanying translations of the instructions given you by the Executive Council of France—to be distributed among the members of Congress—desiring that the President will lay them officially before both Houses—and proposing to transmit successively other papers to be laid before them in like manner; and I have it in charge to observe, that your functions as the Missionary of a foreign nation here, are confined to the transaction of the affairs of your nation with the Executive of the United States;—that the communications which are to pass between the Executive and legislative branches, cannot be a subject of your interference; and that the President must be left to judge for himself what matters his duty or the public good may require him to propose to the deliberations of Congress.

"I have therefore the honor of returning you the copies sent for distribution, and of being with great respect, Your most obedient and most humble servant." This minute is subjoined: "Submitted to the correction

* Endorsed by Jefferson. "Received Dec. 28th."

of the Secretaries of the Treasury and of War and the Attorney-General. Approved Th. J.—A. Hamilton; H. Knox;. E. Randolph."

This command by Washington speaks volumes. He evidently was resolved to hold Jefferson to his responsibility to the latest hour of his official career. A letter from the President to a late Senator from Virginia, Richard Henry Lee, explains the motive of his requisition. "On fair ground it would be difficult to assign reasons for the conduct of those, who are arraigning, and so far as they are able, constantly embarrassing the measures of government, with respect to its pacific disposition towards the belligerent powers in the convulsive dispute, which agitates them. But their motives are too obvious to those, who have the means of information, and have viewed the different grounds which they have taken, to mistake their object. It is not the cause of France, nor I believe of liberty, which they regard; for, could they involve this country in war (no matter with whom) and disgrace, they would be among the first and loudest of the clamorers against the expense and impolicy of the measure.

"The specimens you have seen of M. Genet's sentiments and conduct in the gazettes form a small part only of the aggregate. But you can judge from these to what test the temper of the Executive has been put, in its various transactions with this gentleman. It is probable that the whole will be exhibited to public view in the course of the next session of Congress. Delicacy towards his nation has restrained the doing of it hitherto. The best that can be said of this agent is, that he is entirely unfit for the mission on which he is employed; unless, (which I hope is not the case,) contrary to the express and unequivocal declaration of his country, made through

himself, it is meant to involve ours in all the horrors of European war. This, or interested motives of his own, or having become the dupe and the tool *of a party formed on various principles*, but *to effect local purposes*, is the only solution that can be given of his conduct."

The day he wrote to Genet, Jefferson announced to Washington his resignation, stating, "his propensities to retirement as being daily more and more irresistible," and tendered him "his thanks for all the indulgences he had been so good as to exercise towards him in the discharge of its duties." "Conscious," he remarked, "that my need of them has been great, I have still ever found them greater, without any other claim on my part than a firm pursuit of what has appeared to me right, and a thorough disdain of all means which were not as open and honorable as their object was pure. I carry into my retirement a lively sense of your goodness, and shall continue gratefully to remember it."

This deprecatory letter was acknowledged in the kind terms it invited.*

Having, in his Report to Congress, as to the foreign relations, thrown a brand into the councils of the nation, though admonished that "he must not make his final exit from public life till it shall be marked by justifying circumstances, which all good citizens will, and to which his friends could appeal," † he left the Cabinet.

He deserted from Congress instantly on learning the disastrous battle on Long Island. He abandoned the chief magistracy of Virginia while the enemy were in possession of that State, and when an impeachment was hanging over his head; and he retired from the depart-

* Jan. 1, 1794.

† Madison to Jefferson. Life by Tucker, i. 463.

ment of State when every thing indicated imminent perils to his country.* He retired "to avoid being more deeply implicated in the consequences of the position, which had been assumed by the administration; but on the hollow pretence of a dislike to public life and a love of philosophic retirement." †

Referring to a proposition made in Virginia,‡ in 1776, Jefferson asks, "Was this moved on a *supposed right* in the mover of abandoning their posts in a moment of distress? The same laws forbid the abandonment of that post—even on ordinary occasions."

* Randall, ii. 220. Jefferson to his daughter, Dec. 22, 1793. "Our affairs with *England* and *Spain* have a *turbid appearance*. The letting loose the Algerines on us, *which has been contrived by England*, has produced a *peculiar irritation*. I think Congress will indemnify themselves by high duties on all articles of British importation. If *this should produce war*, though not wished for, it is not feared."

† "Lucius Crassus." Hamilton's Works, vii. 832.

‡ "Notes."

CHAPTER XCIX.

Much solicitude had been felt by the Virginia Trio as to the selection of a successor to the office of Secretary of State. Madison had written Jefferson—"In a word, we" (Monroe and himself) "think you ought to make the most of the value we perceive to be placed in your participation in the Executive Councils. I am extremely glad to find, that you are to remain another quarter. The season will be more apropos in several respects; and it will prevent any co-operation, which a successor might be disposed to make, towards a final breach with France. I have little hope, that you will have one whose policy will have the same healing tendency with yours. I foresee, I think, that it will be, either King, if Johnson * is put at the Treasury; or Edward Rutledge, if Wolcott should be put there."

The recent hostile procedure of Jefferson towards King had succeeded in creating an alienation between the President and that Senator, and, it may have been hoped, would terminate his justly confiding reliance upon Jay.

The narrative by Jefferson, of a conference with Washington as to the selection of his successor, if it exhibits more, exhibits also his adroitness.

* Governor Johnson of Maryland who nominated Washington as commander-in-chief.

"He" (the President) "said, that Mr. Jay had a great opinion of the talents of Mr. King;—that there was also Mr. Smith of South Carolina, and Edward Rutledge.... He asked me to mention any characters occurring to me. —I asked him, if Governor Johnson of Maryland had occurred to him .... I confessed to him, that I considered Johnson rather as fit for the *Treasury Department*," in which he concurred. After suggesting other names, he, Jefferson, proceeds, "I asked him, whether some person could not *take my office per interim*, till he should make an appointment; as Mr. Randolph, for instance." 'Yes,' says he, 'but then you would raise the expectation of keeping it; and I do not know, that he is fit for it, nor what is thought of Mr. Randolph.'—I avoided noticing the last observation, and he put the question to me *directly*. I then told him, I went into society so little, as to be unable to answer it. I *knew* that the embarrassments in his" (Randolph's) "private affairs had obliged him to *use expedients*, which had injured him with the merchants and shopkeepers, and affected his character of independence; that these embarrassments were serious and not likely to cease soon." The incidents, hereafter related, will show that Jefferson's previous confidential view of Randolph was not far from the truth—"he is in a station infinitely too important for his understanding, his firmness, *or his circumstances*." If he was so unfit for the office of Attorney-General, and as a member of the Cabinet, how much less fit for that of Secretary of State, yet Jefferson is seen foisting him into that high office. Randolph was selected—a pliant—subtle dissembler—and William Bradford of Philadelphia was appointed Attorney-General, in his stead—an able, pure and upright man,—who had filled a place on the judicial bench of Pennsylvania—was allied to the Boudinots, a personal

friend of Hamilton,* and probably appointed at his instance—a firm, undoubted Federalist.

It has been seen, that Jefferson's Report on the Commerce of the United States was nearly three years in a course of preparation.—It may therefore be regarded as a test of its author's opinions and accuracy.

The first thing which attracts attention is the marked change that is to be perceived in these opinions.

In his "Notes on Virginia," written during the Revolution—he declaims against manufactures as inducing corruption, dependence, subservience, venality—tools for ambition; observing, that the proportion which the manufacturers bear to the other classes of a country, is a good enough barometer, whereby to measure its degree of corruption; and he exhorts, that "*our workshops* should *remain in Europe.*"

In this Report, he recommends duties on such foreign manufactures as we most use, and urges, as motives to them, the, "*promoting arts, manufactures, and population at home.*"

In the former essay, he deprecates the importation of foreigners, as "coming from Monarchical Countries, and, as either bringing with them their pernicious maxims, or exchanging them for unbounded licentiousness." In this report, he exhorts to the measures which would bring to this country the natives of Britain—manufacturers, whose numbers, he had said, give "a barometer whereby to measure its degree of corruption."

He also contradicts in one page a maxim he had stated in the preceding. "It is not," he says, "to the *moderation*

* In a letter from Boudinot to Hamilton, he refers him to Judge Bradford as authority for the admission to him by Freneau, of Madison's agency as to the establishment of the National Gazette. August 16, 1792. Hamilton's Works, v. 519—See also Vol. vi. 1. Bradford to Hamilton.

and *justice* of *others*, we are to trust" for a fair Market. This is the basis of a recommendation of *countervailing regulations* against Great Britain.—But, when referring to *other* nations, he says—"It would rest with the wisdom of Congress, to determine whether as to those nations, they will not surcease *exparte regulations* on the *reasonable* presumption, that they will concur in doing *whatever justice* and *moderation* dictate should be done."

Yet Spain and Portugal long declined entering into a commercial treaty. Great Britain soon after concluded one. France, who, he stated, was ready to enter into a treaty "on fair and equal principles" refused to do so, unless the United States, as the price of such treaty, would become a party to the War.

In his Report, he specifies, as evidence against Great Britain, a heavy duty on a principal article of American production; but omits the fact, that the same article from all other countries paid nearly treble that duty.

In enumerating the restrictions on the Navigation, he mentions the "Light and Trinity" duties paid by it in Great Britain, but suppresses the facts, that the extra duty a British ship paid in the United States exceeded that paid by an American ship in England; and that the latter was received there on better terms than those of any other nation—being exempt from alien duties. He condemns our exclusion from the West Indies, and omits to state our admission into the East Indies.

These were not all his inaccuracies.*

* Randall, ii. 213, observes of this Report, "Like a warrior about to leave the field, he seemed disposed to give his foes, and the foes of his cause, a parting salutation to be remembered. The javelin went to the centre of the mark. *There was no apparent elaboration* about this paper, but it had the success, peculiar to so many of Jefferson's writings, and which constitutes the most decisive test of his greatness. It henceforth became the text, nay, the *chart* of a great party." His influence is likened to an "*apostolical mission.*"

From the time whem this Report was made until the discussion of the measures it suggested, no subject of moment was definitively acted upon by Congress.

But a Message from the President communicating a further correspondence with the agents of Spain, gave rise to a debate strongly indicative of the desire of leading individuals to obtain popularity, though at the sacrifice of the public interests.

This Message being confidential, a motion was made by Boudinot to clear the galleries, in accordance with the established rules of the House.

On a subsequent day, Nicholas of Virginia, a zealous partisan of Jefferson, urged, that the discussion should be public.—This was objected to, on the ground, that the public interests would thus be essentially injured.

It was nevertheless proposed by Madison, that the rule should be reconsidered.—In support of this motion, it was said, that "Secrecy in a Republican Government wounds the majesty of the sovereign people;—that this Government is in the hands of the people, and that they have a right to know all the transactions relative to their own affairs;—that this right ought not to be infringed incautiously, for such secrecy tended to injure the confidence of the people in their own government." *

It was observed, in reply, that, "because this Government is Republican, it will not be pretended that it can have no secrets!

The President of the United States is the depository of secret transactions, his duty may lead him to delegate these secrets to the members of the House; and the suc-

* How far a regard to the public interests prompted this motion may be inferred from the opposite course of the opposition during the debate on the increase of the Army.

cess, safety and energy of the government may depend on keeping those secrets, inviolably.

The people have a right to be well governed.—They have interests, as well as rights; and it is the duty of the legislature to take every possible measure to promote those interests.

To discuss the secret transactions of the Government publicly, was the ready way to sacrifice the public interests, and to deprive the Government of all foreign information.

After much debate, an amendment to the rule was agreed to, by which the House were at liberty to discuss confidential communications publicly, if they thought proper, after they had been privately read.

The particular motive to rescind the rule at this time was to have a public discussion of the measures to be adopted with respect to the Algerines.

The long captivity of several of their fellow-citizens by this barbarous power, had worn on the sympathies of the American people: and this opportunity of increasing the excitement against Great Britain, by a debate upon the statement, that she had negotiated a truce between Algiers and Portugal in order to let loose the corsairs of that piratical power on the commerce of the United States, was not to be lost.*

With this view, it was moved, that this discussion should be public; and so strongly was the party arrayed, that the motion was only lost by one vote. Failing in this object, the House, on the third of January, resolved

* A short time before, a letter written by Giles was published, stating that this truce had been concluded by the intervention of England, and that *nine* Algerine corsairs had entered the Atlantic, and captured three American vessels.

itself into a committee to consider the late Report, relative to the Commerce and Navigation of the United States.

Madison, as was to have been expected, came forward in support of Jefferson's policy. He opened this important debate in a studied speech, with a strong condemnation of the administration, as having failed to accomplish that which, he said, it was the chief object of the establishment of the Constitution to effect.

He stated that the situation of their Commerce, when conflicting systems prevailed in the States, gave rise to the Federal Convention, which met to deliberate on some general principles for its regulation conducive to the general welfare, and conciliatory of the countries disposed to enter into the nearest commercial connection with us.

"After four years experiment of the system pursued by the administration, it appeared incumbent to see whether they could not now take measures promotive of the objects for which the Government was in a great degree instituted. Measures of moderation, firmness, and decision were now necessary in order to narrow the commerce with those nations who do not meet us on terms of reciprocity." He then offered a preliminary resolution, asserting this general principle as the basis of the Commercial policy of the United States—"that their interest would be promoted by further restrictions and higher duties, in certain cases, on the manufactures and navigation of foreign nations."—Seven resolutions followed adapted to the cases in view.*

This system, he said, would probably produce a. com-

* They proposed an increased ad valorem duty on certain Manufactures (being chiefly those imported from Britain), and an increased tonnage duty on Vessels of Nations not having Commercial treaties with the United States—a

petition, enabling countries to supply us which did not then do it, with certain articles; and the encouragement of the home production of others—beside an equitable participation in the carrying trade.—Our bulky exports employing much shipping—either necessaries of life or raw materials, the food of the manufacturers of other nations, entitle us to advantages, particularly as the returns were either not necessaries or such for which substitutes were easy to be found.—From the nature of that commerce we must prevail in "a contest of self-denial."—He would not go as far as we might—He only wished the ground marked out on which we think we can stand.—Perhaps it may produce the desired effect without unnecessary irritation.—He would not wound the public credit or risk any sensible diminution of the revenue.—Some European nations have established regulations contrary to the law of nations, by which our property is seized, and so disposed of that damages have accrued. We are bound to

reduction of this duty on those of Nations having such treaties.—Where vessels of the United States, not American built, were not considered as such by any Nation, a similar rule to be applied to its foreign built vessels—where American produce or manufactures were excluded by any Nation, unless imported in American bottoms, or if imported in such bottoms from places not within the United States, a like restriction to be extended after a certain day; and, until then, an extra tonnage duty to be imposed on its Vessels and imports.

To a Nation refusing the carriage of their produce or manufactures to Vessels of the United States, which it admits in its own, a reciprocal restriction was declared just, but as it might, if suddenly adopted, be distressing in cases meriting the benevolent attention of this Country, an extra tonnage duty and an additional duty on distilled spirits imported therein, was advised.

The last resolution declared, that provision ought to be made for liquidating the losses sustained by American citizens from the operation of particular regulations of any Country contravening the law of Nations; and that such losses be reimbursed, in the first instance, out of the additional duties on the manufactures, productions and vessels of the Nation, establishing such unlawful regulations.

obtain reparation or compensate the damage.—If the latter, the burden would only fall on us, in the first instance. —The proper department would, no doubt, take proper steps to obtain redress.—The justice of foreign nations would not permit their denial of reparation, where the breach of the law of nations was evident,—at any rate, individuals should not suffer.—"The amount of the damages that would come within the meaning of his last resolution would not be very considerable."

Madison and Nicholas urged an early discussion of these propositions.—Ames, Murray and Smith contended that their importance required the most mature consideration, as they might involve a sacrifice of the essential interests and of the honor of the United States.—The thirteenth of January was appointed for their consideration—Smith, then offered a resolution, directing the Secretary of the Treasury to report a comparative view of the foreign tonnage employed in the Commerce of the United States, in the years seventeen hundred ninety—ninety-one and ninety-two;—and of the actual state of the American tonnage employed in one year between the United States and foreign nations.

Hamilton presented two Reports—One, the next day * —exhibiting a comparative view of the domestic and foreign tonnage entered into the United States, aggregately taken, extended to part of the year seventeen hundred eighty-nine, and also of the coasting and fishing vessels—thus giving an entire view of the progress of the American Navigation, from the time the revenue laws began to operate to the end of the year seventeen hundred ninety-two, to which was annexed, a more detailed statement for ninety-one, and ninety-two, designating the

* January 14, 1794.

quantum of domestic tonnage and of the foreign tonnage, belonging to each nation, then in Commerce with the United States.

The second report requiring recourse to many documents was unavoidably deferred until the day designated for the discussion.—It gave a statement of the actual tonnage employed between the United States and all foreign countries for the year seventeen hundred ninety-two.

It has been seen, that a proposition by Madison for Commercial discriminations passed the House of Representatives at an early period of this government; and that a Report approving this policy was made to the Senate, but, after deliberate consideration, was rejected.

This precipitate attempt to involve this nation in a Commercial warfare had early engaged the attention of Hamilton.

He regarded it as part of the same system, that had jeoparded the interests of the United States at the close of the Revolutionary War, which it probably prolonged. —He believed, that it was prompted solely by antipathy to Great Britain, and by a predilection for France; and his knowledge of the course of the trade satisfied him, that it proceeded from an exaggerated estimate of the then commercial importance of this country.

That the opinions which had been propagated on this subject were erroneous, Hamilton inferred from the actual state of the American commerce; and as soon as he was enabled to withdraw his attention from his Fiscal duties, he took measures to obtain an accurate knowledge of the policy of foreign Nations towards the United States, and of the actual state of their Commerce and Navigation.

Thus, he had anticipated this, as he characterized it,

"covert design to embark the United States in the War of Europe;" and was fully prepared to meet it.

The call for official statements of the Commerce and Navigation of this Country was probably made at his suggestion, as he confided to the mover of that resolution the duty of making a full exposition of the subject. The debate on the Commercial Resolutions was resumed on the thirteenth of January, by William Smith of South Carolina, in reply to Madison.

This elaborate performance was from the pen of Hamilton as appears from his autograph draft.

That he was the author of this speech was conjectured at the time by Jefferson,* and was subsequently avowed by the member, to whom it was intrusted.

The power and character of his mind may here be contrasted with that of Madison.

After some comments on the importance of a wise regulation of Commerce—and on the diligent and accurate investigation it seriously claimed, he observed, that, "called on to decide on propositions merely Commercial, and springing from a report, in its nature limited to Commercial regulations, it would be as ill timed, as it would be irregular, to mingle with the discussion considerations of a political nature. He would therefore reject every idea having reference to the Indians, the Algerines, or to the Western posts.—Whenever they require consideration, he would not yield to any member in readiness to

* Jefferson, iii. 302. "I am at *no* loss to ascribe Smith's Speech to its true father.—Every letter of it is Hamilton's, except the introduction.—There is scarcely any thing there which I have not heard from him in our various private, though official discussions.—The very turn of the arguments is the same, and others will see as well as myself that the style is Hamilton's."—April 3, 1794.

vindicate the honor of the nation and to concur in such measures as our best interests may demand.

"The country is in a delicate crisis,—requiring dispassionate reflection, cool and mature deliberation,—and it will be much to be regretted, if passion should usurp the place of reason, if superficial, narrow, and prejudiced views should mislead the public counsels from the true path of National interest.

"The tendency of the late Report, whatever may have been the design of the Reporter, appears to be, to induce a false estimate of the Comparative Condition of our Commerce with certain foreign Nations, and to urge the adoption of a scheme of retaliating regulations.—As the most striking contrast it aimed at was between Great Britain and France, he would endeavor to make an accurate and impartial comparison of their Commercial Systems towards the United States, as a test of the solidity of the influence it attempted to establish.

"This comparison should be made as to their permanent systems.—The regulations of France during her revolution were too fluctuating, and, towards this Country, too much manifesting an object of the moment, which cannot be mistaken, to be considered as part of a system."—He then referred to a table* exhibiting their respective systems, in which, he remarked, "from the constant panegyrics on the commercial policy of France and philippics on that of Great Britain towards us, we would naturally expect to find numerous favorable discriminations and valuable privileges granted us by France, which she refused to other countries; and frequent discriminations to our prejudice, and a variety of privileges refused us by Great Britain, which she granted to other

* Prepared by Hamilton.

Nations.—But, this table will satisfy every candid mind that the reverse is truly the case—that in France and her West Indies there is but *one solitary* distinction * in our favor; and that both in Great Britain and her West Indies there are several material distinctions in our favor as to our exports, imports, and shipping—that there is a preference in her Markets to six of our most valuable staples by higher duties on the rival articles of other countries—and that our navigation is also favored by her."

A Review was then taken of the relative condition of the great staples in the ports of each of these countries; —from which it appeared, that the principal productions of this Country were more favored by the British than by the French commercial system.† This conclusion

* Fish Oil.

† As to FLOUR: the result of both systems in the ordinary state of things was stated to be the same to us—though the chance was that Great Britain, notwithstanding her high duties, may prove the better customer for it.—But in the French West Indies, flour is *prohibited* by a standing law—and that the general prohibition had been suspended prior to the summer of 1792 is a *mistake of the Secretary of State*.—In the British West Indies, flour is a *free* article, with this distinction in our favor, that no other Country can carry its flour thither, even in British bottoms.

TOBACCO, in France, was the subject of an injurious monopoly, which made no distinction in favor of or against us.—In Britain, American paid 15 pence a pound—other foreign, 43 cents.—The rate of drawback was also favorable to us.—*This difference, the Secretary of State omitted to* notice.—In the French West Indies, Tobacco is prohibited.—In the British admitted free.—Thus as to the second in value of our Exports, the system of England was far more favorable.

RICE of every country paid in France, an eighth per cent. ad valorem.—In Great Britain, it paid 88 pence sterling per cent., while that of the British East India Co. paid 106 pence.—In which it stood best, was not easy to pronounce—though the rate of duty was of little moment, it being in both a *mere* luxury.—In the West Indies, Rice being a part of the *common* food—a duty on it tends to diminish its use.—In those of France, it paid a duty, though too small to be

was confirmed by a tabular comparison of the exports to either country during a fiscal year, ending in September seventeen hundred and ninety. Those to Great Britain were double in value to those to France—and this and the two succeeding years showed an annual average excess to Great Britain of more than three and a half millions of dollars.—Viewing these exportations, in detail, or in the aggregate, Great Britain was a *more important* customer in the ratio of *two* to *one*.

To weaken the influence of this important difference, Jefferson, it is seen, had urged, that a very large proportion of the exports were for re-exportation.

The accuracy of this statement, it was declared, might be boldly questioned; as no data were furnished by him, as it was not probable any satisfactory data were possessed by him; and, as a reference to existing documents showed, that one-third for re-exportation would be an ample allowance; that with this allowance she consumed

of any moment.—In the British, it was free, and that of the United States had a monopoly.

Wood had decided advantages in the British over the French system.—"In Great Britain it was and is free, while other foreign rival woods are subject, not to *some small*, as the Secretary of State represents, but to considerable, and, in some instances, *high* duties.—Some of the Northern nations could afford to undersell us, but for the protections these high duties give our woods.—In the French West Indies—*wood* pays one per cent.—In the British, it is free.—This is a small difference, but in the British other foreign wood was *prohibited*. As to the Fisheries—the comparison was in favor of France.—Each country sought a monopoly of her market to her own Fisheries, and the exclusion of others.—If," it was observed, "in the conduct of Great Britain towards us, in this particular, we discern the spirit of a selfish rival;—in that of France, in the same particular, we cannot but see the machinations of an insidious friend."

Pot and Pearl Ashes—Naval Stores and Iron were received on more favorable terms by Great Britain, than by France.

As to Live Stock and Flaxseed, the provisions of each country were, in effect, the same.

two millions worth more than France.—But this objection "was founded on false principles.—Her intervention might be considered as a mean of extending, not of abridging our Commerce; and might be no less beneficial, than if she were the actual consumer.—Her being an intermediary, being the result of the natural course of trade, showed, that it was our interest she should stand in that relation."—This was fully proved.

That three-fourths of our Imports were from Great Britain and her dominions, was "considered as a grievance.—To an unbiassed mind, this demonstrated the great importance and utility of our trade with her; nor can any alteration be made, but by means violent and contrary to our interests, except in a way which is not the object of the Report—an *efficacious* system of encouragement to *home manufactures.* Every effort to turn the tide of trade from her to other countries will amount to a *premium* upon their manufactures and productions, at the expense of the people of the United States."

Two causes produced this extent of trade.—She was "the first manufacturing country in the world, and can supply the greatest number of articles we want, on the best terms; and she had the largest mercantile capital and most extensive credit.—Nothing had tended more to nourish the industry, agriculture and commerce of the United States than foreign capital.—France, it was said, could supply us with many articles better than Great Britain. This term *better* ought to include *credit* as well as *quality.*—The merchants of France are unwilling, and unable to give us competent credit; and they can supply us with but few articles cheaper than the British. As trade has hitherto been left to find its own channels, the presumption is, that it has flowed in those, where its natural relations and best interests have led it.

"To divert it from them can only be effected by additional duties or prohibitions, which would be to charge our own citizens with a positive expense, to support, not their own industry and manufactures, but those of other countries.

"As to the NAVIGATION of the Country. In the immediate trade with Great Britain, our ships are on the same footing with those of England, and upon a better than other foreign powers; they not paying alien duties. This is a departure in our favor from the principle of her navigation act. With France, they are on the same footing with the most favored nations, not better. Thus far the comparison was in favor of the system of Great Britain. But, from the British West Indies our vessels are strictly excluded, while France admits all foreign vessels of sixty-four tons, and under. In this respect, the comparison is in favor of France. Yet the effect as to our tonnage is very different from that suggested in the Report of the Secretary of State, who, in estimating the tonnage, has pursued a very erroneous guide; his statement not being according to the number of ships employed, but to the number of inward entries made by each.

"Thus a Vessel making two voyages to and from Great Britain in a year, would be counted twice, while one of equal burthen making four voyages to the West Indies, would be counted four times. This error had led to the call for the statement of the actual tonnage.* Upon a comprehensive and impartial view it appeared, that the system of Great Britain, instead of bearing an

* Jefferson computed the tonnage to France and her Colonies at 116,410 tons, and with Great Britain and her Colonies at 4,358. The actual official returns showed, the tonnage to France and to her colonies to be 82,510, with Great Britain and her colonies, 66,582. The excess to France being 15,928 tons, instead of 72,850 tons. So deceptive was his statement.

aspect particularly unfriendly, had, in fact, a contrary aspect. Compared with other foreign nations, it makes numerous and substantial discriminations in our favor, secures a preference in her markets by means which operate as bounties to the greatest number of our principal productions; and, that in the system of France, there is but a single and unimportant instance of a similar kind.*

"If the system of France is somewhat more favorable to our navigation, that of Great Britain is far more favorable to our agriculture, to our commerce, and to the due and comfortable supply of our wants. She is a better furnisher of what we have to buy, and a better customer for what we have to sell. Where then is the ground for extolling the liberal policy of France, the superior importance of our commercial connection with her, and, for exclaiming against the illiberal and oppressive policy of Great Britain; and for representing our intercourse with her, as secondary in consequence and in utility? There is none. 'Tis altogether a deception, which has been long successfully practised upon the people, and which it is high time we should unmask.

"Passing from the facts to the principles and motives of their respective systems, there was as little room for eulogium on the one, as censure on the other. Candor will apply the same station to both, in our good or bad opinion.

"The alterations of the French system, since the Revolution, were known to have placed our trade rather on a worse footing, than it was before." A brief review of the Colonial policy of France showed that "its general principle was like that of Great Britain, a system of monopoly, the temporary deviations from it being made from

* Fish Oil.

necessity, or the force of circumstances. "In the same manner the force of circumstances had induced a departure by Great Britain from the system of her Navigation Act as to *supply*. By the unprejudiced, in neither system was to be seen either enmity or particular friendship. In both, a predominant principle of self-interest, the universal rule of national conduct." A Review of the systems of other Nations followed, showing that those of the Netherlands, Sweden, Spain, and Portugal were less favorable, than those of Great Britain. Several misstatements in the Report as to these were also indicated.

"As to the Colonial trade, monopoly being the prevailing system of most Nations, there was no room for acrimony against any particular one that pursued it.

"The United States ought to avail themselves of every just and proper influence to gain admission into it, but should pursue this object with moderation, not under the instigation of a sense of injury, but on the ground of *temperate* negotiation and *reasonable equivalent*."

Hamilton next considered the remedies indicated by Jefferson. "The reason of the thing and the general observations of his Report would extend these remedies to *all* the nations in commerce with us, but his conclusion would seem to confine them to Great Britain, on the suggestion, that *she alone* has *declined* friendly arrangements by treaty, and that there is no reason to conclude, that friendly arrangements would be declined by other Nations."—This allegation was shown not to be warranted by the correspondence, and it was asked why, "Spain having a right by the secret article in the treaty with France to become a party to our commercial treaty with her on the same terms and not availing herself of it; and a similar effort having failed with Portugal, why was

Great Britain selected, but that it is most in unison with our passions to enter into collisions with her.

"Retaliations should be proportionate to injuries.—If suffering equal impediments from two powers we retaliate only on one, it would evince a hostility that would be reciprocated.—If suffering fewer from one than from another, we retaliate on that from which we suffer least, the spirit of enmity becomes more unequivocal.—If receiving a positively better treatment from one than the other, we deal more harshly towards the power which treats us best, will it be evidence, either of justice or moderation? Will it not be proof either of caprice or of a hatred and aversion of a nature, to overrule the considerations, both of equity and prudence?

"The Resolutions which may be considered as a Commentary on the report do every thing but name Great Britain. Professedly confined to the powers, with whom we have *no* treaties of Commerce—the articles selected, as objects of regulation, have scarcely any application but to Great Britain. This is but a flimsy cover.—There would have been much more dignity in naming the party, with whom it was meant to contend.

"To justify these measures, the prospect of advantages should be at least an equivalent for those in possession, which would be put in jeopardy by the experiment.—There is no real prospect of any advantage, but much of inconvenience and loss.—Our situation forbids experiments.—It is an eligible one. The prosperity of a nation is not a plant to thrive in a hot-bed.—Moderation in this respect is the truest wisdom.—It is so plain a path, that it requires a peculiar sublimation of ideas to deviate from it.

"Our navigation in three years has increased nearly one-fifth. We are gradually supplanting foreigners.

"The tonnage duty, with the addition of one-tenth on

foreign bottoms, is a powerful encouragement, yet not such a discrimination as to excite retaliation. As to our agriculture, the exports of the last year exceeded the mean of the two preceding, more than a million and a half of dollars;—our Revenue from imports exceeds our anticipations—our manufactures are progressive.

"The proposed additional duties are objectionable, because the existing duties are generally high enough for our mercantile capital, and the safety of collection.—They are near twenty per cent., on an average, on the value of the objects charged, higher than those of several countries. —To augment the rates, would be to oppress trade.

"Will this attempt be believed to proceed from a pure zeal for the advancement of our commerce and navigation? Have the views of our public councils been uniform on this point? Have they never contributed to lose favorable opportunities for making a treaty with Great Britain by recalling powers for that purpose once given, and by defeating efforts made to send them where they might have been useful?* Whatever may be the motive, the operation may be pronounced to be a phenomenon in political history—a government attempting to aid Commerce by throwing it into confusion, by obstructing the most precious channels in which it flows, under the pretence of making it flow more freely; by damming up the best *outlet* for the surplus commodities of the country, and the best *inlet* for the supplies of which it stands in need; by disturbing, without temptation, a beneficial course of things, in an experiment precarious, if not desperate; by arresting the current of a prosperous and progressive navigation, to transfer it to other countries; and by making all this wild work in the blamable but feeble

* Ante, ii. 447

attempt, to build up the manufactures and trade of another country, at the expense of the United States.

He then proceeded to indicate the improbability of the success of these attempts. To the argument of Madison in their favor, founded on the importance of our Commerce to Great Britain, Hamilton replied;—"It is as great an error in the councils of a country to *overrate*, as to *underrate* its importance.—The preceding argument does this, and does it in defiance of experience.—Similar arguments were used in favor of a *non-importation* scheme.—The same consequences were predicted, but the prediction was not fulfilled.—This should be a caution against a measure of much less force—an increase of duties.—But resistance will follow—a war of arms and of commercial regulations.

"Of the first, it is said, there is no danger.—War is as often the result of resentment, as of calculation.—A direct and immediate War would not be surprising.—If not, mutual ill offices and irritation would quickly lead to it.—Should England prefer commercial regulations—how will the contest stand?—We receive one-fifth of her exports. Our exports to her constitute one-eighth of all her imports.—Our trade with her bears, to *her* whole trade, the proportion of one-sixth.—Our trade with her, to *our* whole trade, is more than one-half.—Such a contest would disturb one-sixth of her trade and more than one-half of ours."

Other considerations were adduced to show the irregularity of the contest. "France could not supply the chasm it would cause.—But, it may be asked, what counteracting regulations can Great Britain adopt?—She could prohibit, or lay prohibiting duties, on her and our commodities in our bottoms.—She might grant temporarily to the Dutch or to other friendly bottoms, the privileges we

enjoy; or she might permit the importation of our commodities in some of those bottoms. Her manufactures would reach us in nearly the same quantities, but with additional charges.—Where will we find another market in lieu of hers?

"But are we to sit with folded arms? If not, what are we to do? I answer—nothing, at the present juncture, and we ought with great caution to attempt anything, till we have acquired a maturity, when we can act with greater effect, may brave the consequences of war, and have secured more adequate means of internal supply, to which we should bend our efforts as the only national and safe expedient at present to counteract the monopoly which more or less tinctures the system of all Europe.—But, from this we not only turn aside with neglect, but we *object* away, the plainest provisions of the Constitution to disable ourselves from pursuing it.

"Every year for years to come will make us a more important customer to Great Britain, and a more important furnisher of her wants.—If this does not lead to such a treaty of Commerce as we desire, the period is not far distant, when we may insist on it with better effect, and with less hazard.

"Wisdom admonishes us to be patient 'to make haste slowly.' Our progress is, and will be rapid enough, if we do not throw away our advantages.—Why should we be more susceptible than all the world? Why should this young Country throw down the gauntlet in favor of free trade against all the world? There may be spirit in it, but there will certainly not be prudence."

CHAPTER C.

These counsels, worthy of a statesman, rising above all narrow views, sunk deep into the mind of the House—paralyzed the opposition, and decided the ultimate fate of these intemperate and inconsistent resolutions.—Madison felt their force, nor could he conceal his chagrin.—The subject, he acknowledged, was "of a commercial nature, but justice could not be done to it nor to the interests of the United States without some allusions to politics.—He was a friend to free trade, but there were exceptions to this rule.—The British Navigation Act was a proof of the effect of one exception. Another exception was, where the situation of one Country was such relative to another, that by duties on the commodities of that other, it shall not only invigorate its own means of rivalship, but draw from that Country the hands employed in the production of these commodities.—Such an effect is so much clear gain, and is consistent with the general theory of national rights. To leave commerce to regulate itself, is to submit it to be regulated by other nations.—Had we commerce with only one nation, and should permit a free trade, while that nation pursued a system of monopoly would she not enjoy the carrying trade and with it the maritime strength be heaped upon a rival? In the same proportion then, with the freedom we grant the vessels of other nations, and

with the burdens they impose on ours, will be the transfer of those maritime resources.

"As to NAVIGATION, it is conceded we are not placed on the same footing by the two Nations with whom we have most intercourse. British Vessels enter our ports with the produce of all countries; our vessels can carry to their ports only their own commodities; and those only, to a part of her dominions.—From her West Indies they are excluded. In seventeen hundred ninety, we employed in our trade with her forty-three thousand tons —she, in her trade with us, two hundred and forty thousand.—In seventeen hundred ninety, in our trade with Spain, our tonnage was as five to one—with the Netherlands, as fifteen to one—with France, as five to one; and with Great Britain, as one to five. At present, it is with Spain, as sixteen to one—with the Netherlands, as twenty-six to one—with France, four five to one; with Great Britain, one to three.

"This ratio is the more mortifying, when the nature and amount of our Exports is considered.—They are not only necessaries of life, or necessaries for manufactures, and therefore of life to the manufacturer; but their bulk gives them an advantage over those of every other country. Could we secure the transportation of our own commodities, it would greatly augment our shipping and sailors—though we should be obliged to return empty from the markets for our exports, which would be a considerable tax.

"Her regulations as to manufactures are not more equal—Great Britain furnishes us with nearly fourteen out of upwards of fifteen millions.—Those from France, in the same period, who consumed more of our produce, amounted only to one hundred and fifty-five thousand.—At the same time, the balance of trade was greatly in our

favor with every other nation, and greatly against us with Great Britain. 'In some cases, there might be advantages of intercourse that would compensate for such balance, but that could not be in the intercourse with her.

"Other nations decided a balance of trade against them as an evil—England especially being careful to prevent it.—What must be the feelings of a nation with whom we have friendly relations, when she sees not only that balance against her, but that what we get from her flows into the coffers of one of her most jealous and inveterate enemies?

"Discriminations in favor of nations in treaty with us had been made by some States before the existence of the present Government; and were sanctioned by that House when at New York.—It was the practice of Nations to make them.—It was necessary to give value to treaties.—To depend on one Nation for articles of necessity, was an evil of serious magnitude; as it produced an influence on their Councils, which, the more inconvenient it became by its constant growth, the more obstacles it could interpose to a necessary remedy.

"The interests of Great Britain will not suffer her to retaliate, and our intercourse with her will not be interrupted further than is required by our convenience and our interests. The effects of a Commercial warfare would be more felt by her—in her shipping business—by her merchants—above all—by her manufacturers. Three hundred thousand manufacturers would be suddenly thrown out of employment, by withdrawing our trade from her.—They would consider the United States as an asylum from their wretchedness—but, whether remaining discontented at home, or seeking their fortunes abroad, the evil would be such, that she would be aware how she provoked it.

"We would have vast advantages in a contest with a populous manufacturing country, producing within ourselves all the necessaries of life, and able to dispense with the articles received from others.—Great Britain is dependent upon us for her most essential supplies, for the sale of her manufactures to purchase bread, and for the raw materials which are the basis of them. Her West Indies find in us their best market; and can obtain from us, almost alone, the necessaries of life. Their dependence is still greater in case of war or famine, yet, that our produce is admitted to the exclusion of other Countries is considered as a favor.

"That her Commercial regulations are as favorable to us as to other nations ought not to satisfy America. If other nations are willing to bear impositions, or are unable to retaliate; that is not an example for us to follow.—We are in a condition to insist and ought to insist on a perfect Commercial equality. The extensive credit she grants us is not a real advantage. The use of it is a political evil, increasing the unfavorable balance of trade—discouraging domestic manufactures—promoting luxury, but, chiefly as it favored a British influence, dangerous to our political security."

After a review of the state of the Commerce in the articles of our produce, Madison urged her illiberal restrictions and the enhanced freight we paid in her bottoms during a British war.—The immense advantages to result from his resolutions would, he said, repay the expense of fitting out a marine force and any other consequences.

"Ill will and jealousy had been the predominant features of her conduct towards us.—She had been encouraged by the dream of supplying her West Indies from the remnant of her possessions.—Experience had put an end to such expectations.—The only other grounds of treating

us with disrespect were founded on the impotency of our Governors, and the want of union among ourselves." *

While similar arguments were used by some of the advocates of the "Commercial resolutions," others deviated nto angry criminations of Great Britain—and of their own country.

Giles, in his reckless way, affirmed the accuracy of Jefferson's Report, asserting that its omissions are immaterial. He denounced the policy of England, as evidence of hostility—insisted on the advantages of the United States in a Commercial warfare, descanted on the financial system—the establishment of an army—the anticipation of a navy, charging their supporters with wishes "to assimilate the Government to that of Great Britain, or at least for a more intimate connection;" and averring, that she calculated upon her own influence upon and a want of concert in our Councils.

It had been stated by the advocates of the proposed restrictions that the chief opponents of them were merchants; and hence was inferred the injurious influence of British capital on the American mind.

Of the mercantile members of the House, who controverted the policy of this Report, Fitzsimmons, Foster and Goodhue took part in the debate; but, beside these, the

* Fisher Ames writes at this time, "Never was a completer defeat than the restricting party have met with, as far as argument goes. But party has resources after those of reasoning are exhausted. Madison and Co. now avow, that the political wrongs are *the* wrongs to be cured by Commercial restrictions; which, in plain English, is, we set out with a tale of restrictions and injuries on our Commerce, that has been refuted solidly; pressed for a pretext, we avow that we will make war, not for our Commerce, but with it, not to make our Commerce better, but to make it nothing, in order to reach the tender sides of our enemy, which are not to be wounded in any other way. You and I have long believed this to be the real motive. I own that I did not expect to hear it *confessed*."—Ames's Works, i. 133.

most zealous of its adversaries were a class of men who were the last in the United States against whom this charge could justly be directed—Colonels Dayton, Forest, Hartley, Hillhouse and Tracy—all officers of the Army of the Revolution.

Indeed, it is among the remarkable facts in the history of this Country, that while a vast majority of those who had measured swords with England on the field of battle were accused of predilections for, and subservience to her interests, the men who claimed the merit of exclusive patriotism and pure American feeling, and who raised this charge, were chiefly those who had enjoyed civil employments of distinction and profit, during the war; or had emerged from obscurity when its dangers and its toils were passed.

"I am not," said Colonel Forest with indignation,* "I am not a stockholder or a bankholder.—I am too poor to be either, and therefore can have no separate interest in view; and, where I am known, I shall not be charged with partiality to Great Britain.—But, I hope, I am free from such unwarrantable prejudices as to lead me into measures to the injury of my Country. The promotion of her essential and permanent interests is in the discussion of Commercial affairs the principal point to be kept in view.—We should not regard the favoring of the French or British nation. If we have suffered from Great Britain the injuries alleged, let it, at least in the first instance, be matter of negotiation.—Neutral nations must suffer some inconveniences.—It will be much better policy to come forward at once, and say we are at war. —We will not submit to vexatious insults, when they are too much to suffer rather than to make this Commercial Warfare, by which it is impossible in the course of

* Jan. 15.

human events, but that we must be the greatest sufferers."

He then proceeded with a succinct comparison of the relations of the United States with Great Britain and France, terminating, in the conclusion that their intercourse with Great Britain was as favorable as could be expected in the aggregate—full as favorable as with France, the Navigation act excepted.

As to NAVIGATION; "he had long thought her system ought not to have been submitted to, but are we to expect at a moment like this, acting under the impulse of resentment, she will waive an atom of her Navigation act to the result of our Resolutions? It is vain.—Let us not hazard that which is certain, which the safeguard of experience has proved, for that we know not of."

Colonel Dayton dwelt chiefly on the form in which the proposed change in the American system was presented. He wished to know whether the general resolution of Madison "was a distinct proposition, or to be considered as connected with and explained by those that follow it. If the former, it was indefinite, inconclusive, and therefore of itself unintelligible. It presented distinct considerations as to Revenue,—as to Manufactures—a discrimination between nations in treaty, involving a different course of inquiries and producing very different results.

"If considered in connection with the others, then it was subject to every change they might undergo. Who could vote for a resolution exposing him to such embarrassment? The subordinate resolutions intended to explain it, were, in reality, false expositions of the text.—The third article was in direct opposition to its letter and spirit, as it contemplated a diminution and restriction of duties, whereas the others proposed 'further restrictions

and higher duties,' as the true means of promoting the interest of the United States."

The allegation that British credit had influenced the conduct of this Country was repelled by Tracy, as a calumny on the American people. "If we may argue from a great State, Virginia, to the Union, this is not true, for although that State owes immense debts, her representatives come forward with great spirit to bring Britain to her feet.—The people at the Eastward do not owe the English merchants, and are very generally opposed to these regulations.—These facts must convince us, that the credit given by Great Britain does not operate to produce a fear and a dependence which can be alarming to government.

"This discussion," he observed, "has assumed an appearance which must be surprising to a stranger, and painful to ourselves. The Congress of the United States is seen deliberating, not upon the welfare of our own citizens, but upon the relative circumstances of two European nations; and this deliberation has not for its object, the relative benefits of their markets to us, but which form of government is best and most like our own, which people feel the greatest affection for us, and what measures we can adopt which will best humble one, and exalt the other.

"The primary motives of these resolutions, as acknowledged by their defenders, is not the increase of our agriculture, manufactures, or navigation, but to humble Great Britain, and build up France; and although, it is said, our manufactures and navigation may receive some advantage, it is only mentioned as a substitute in case of failure as to the great object.

"The discussion in favor of these Resolutions has breathed nothing but hostility and revenge against the English; and yet they put on the mild garb of Commer-

cial regulations.—Legislatures, always cautious of attempting to force trade from its own channels and habits, should certainly be peculiarly cautious, when they do undertake such a matter, to set about it with temperance and coolness. But in this debate, we are told of the inexecution of the former treaty—the withholding the Western Posts;—the insults and dominations of a haughty people; that through the agency of Great Britain the savages are upon us on one side, and the Algerines on the other. The mind is roused by a group of evils, and then called upon to consider a statement of duties on goods imported from foreign countries. If the subject is Commercial, why not treat it commercially, and attend to it with coolness? If it is a question of political hostility, or of war, a firmer tone may be adopted.

"If the conduct of Great Britain is as hostile as is represented, I cannot justify myself to my constituents, or my conscience, in admitting that the adopting of these regulations of Commerce, a Navigation act, or the whole parade of shutting Ports and freeing trade from its shackles, is in any degree calculated to meet or remedy the evil.—Although, I deprecate war as the worst of calamities for my Country, yet I would inquire seriously, whether we had, on our part, fulfilled the Treaty with Great Britain, and would do complete justice to them first. I would negotiate, as long and as far, as patience ought to go: and if I found an obstinate denial of justice, I would then lay the hand of force on the Western Posts; and would teach the world, that the United States were no less prompt in commanding justice to be done them, than they had been patient and industrious in endeavoring to obtain it by fair and peaceable means. In this view of the subject, I should be led to say: Away with

your milk and water regulations; they are too trifling to effect objects of such importance.

"Are the Algerines to be frightened with paper resolves? or the Indians to be subdued—or the Western Posts taken by Commercial Regulations?

"When we consider the subject merely as a Commercial one, it goes too far, and attempts too much; but, when considered as a war measure, it falls infinitely short of the mark, and does too little."

The tendency of these resolutions, it was remarked by Samuel Dexter,* a new and very able Member from Massachusetts, "was not to encourage American but foreign interests.—This was confirmed by the fact, that they were unanimously opposed by the Representatives of the States most deeply interested in Commerce and manufactures, though they had been assured by the supporters of them that they were to be peculiarly benefited by their salutary operation.—The commercial restrictions of England had been reprobated, but what were the discriminating duties in favor of American Shipping? Were not the motives and the purpose of them the same? Our Commerce labors under numerous disadvantages, but most of these result from our youth.—It is in vain to pant for premature manhood.

"To attempt to obtain it by excess of nutriment would only produce disease.—Does the stripling take medicine, because he is not as athletic as his sire?

"Let us be just to our passions.—England makes important discriminations in our favor.—These good offices we do not, in any instance, reciprocate.—She excludes, it is true, our ships from the West Indies—but Spain and Portugal exclude not only our shipping, but every article of our produce,—This does not justify Great Britain,

* Jan. 23.

but it shows she treats us better than other nations; and ought to soften our resentments.

"It has been said, we ought to carry according to the bulk of our exports!—We shall encourage the carrying trade as far as is necessary for our public security.—Beyond this, we diminish our population, wealth and agriculture.—We reduce our yeomanry to be the hirelings of foreign masters.—The balance of our commerce with Great Britain, it is said, is against us.—He doubted whether the aggregate balance was so—but if it were, it was a loan employed by us, at a great profit.—That this was an evil of much moment he did not believe—for such evils must soon correct themselves.—We pursue a phantom, when we labor to obtain a perpetual balance in our favor.—It is said, we can deprive England of the necessaries of life. One complaint is, that she refuses *to take them.*—Will she suffer more when we refuse to *let her have them?* But we can refuse her manufactures! The mover of these resolutions has stated, that we import only four per cent. of her manufactures.—She may then lose the profit on this four per cent.—This she will not lose, for our increased demand from other nations will increase this demand upon her.

"It is said, we may compel England to make a commercial treaty.—She will not refuse to make one beneficial to her, and could we compel her to make a prejudicial one, would it be lasting?

"I have made these observations not because I am the friend of Britain, but because a sense of duty compels me.—If I have a predilection for any country besides my own, that bias is in favor of France, the place of my fathers' sepulture.

"No one more than myself, laments the spasm of patriotism that convulses the nation and hazards the cause

of freedom.—But we ought not to suffer a torrent of feeling to sweep us from our posts.—We are neither Britons nor Frenchmen—We are Americans—the Representatives of Americans—the guardians of their rights and interests; and these forbid us to pass the Resolutions, now under consideration."

"We hear it declared," said Ames, indignantly, "that the design of the Resolutions is to put our trade on a *better* footing—by a better, we are to understand a more profitable one.—Profit is a plain word that cannot be misrepresented.—We have twenty millions dollars of exports annually.—To have a trade of exports on a good footing means to sell them dear, and that of imports on a good footing is to buy them cheap.—If the Resolutions will cause us to sell our exports cheaper and buy our imports dearer—our trade will suffer an injury. The loss of a greater part of the profit to the producer, discouraging the products of our land and industry, may be of the worst kind of injury.—It is to this test I propose to bring the resolutions on the table.

"Have we a good *market*, is the question? The actual market is everywhere more or less restricted.—For this country to form the project of changing the policy of nations, and to begin the abolition of restrictions, by restrictions of its own, is equally ridiculous and inconsistent.

"What is the actual market for our Exports and Imports? The terms on which our exports are received in the British market have been accurately examined by a gentleman," (Hamilton.)—"Before his statement of facts was made, it was urged, that the system of England indicated her inveteracy towards this country, while that of France, springing from disinterested affection, constituted a claim for gratitude and self-denying retribution.—Since

that statement, that romantic style, so ill-adapted to the subject, has been changed.—The comparison of the footing of our exports in the markets of France and England, it is insinuated, is of no importance. That it is chiefly our object to see how we may assist and extend our commerce. This evasion of the force of the statement or rather this indirect admission of its authority establishes it.—It will not be pretended, that it has been shaken during the debate.

"From this statement it appears, that of the articles therein stated as exported to Great Britain, constituting nearly eight and a half millions of dollars in value, *two articles only are dutied by way of restrictions*—breadstuff so high as to exclude it in times of plenty to foster her own agriculture.—The mover of the Resolutions justified the exclusion of breadstuffs from the French West Indies, because they were found to prefer their own products to ours.

"It would seem that the same apology would do for England, in her home market.—But what will do for the vindication of one nation becomes ground of invective against another!

"Of eight and a half millions sold to Great Britain, only the value of one million one hundred and sixty-eight thousand dollars was under a restrictive duty.—*One eighth* part is restricted!"

This examination, extended to the other exports, showed that seven-eighths were received on terms of positive favor.

"This is better," he observed, "than Great Britain treats any foreign nation—better than she treats her own subjects, because they are by this means deprived of a free and open market.—It is better than our footing with any nation, with whom we have treaties.—If it were not

better than that of France, our articles would be sent tc France.

"It is better for us than a freedom of Commerce; and if a state of freedom for us is par, the present system raises them, in point of privilege, above par.

"But as to France.—If France receives little of such of our productions as Britain takes on terms of privilege and favor, because of that favor—this allows the *value* of the *favor*.—If France takes little of our articles because she does not want them, it shows the absurdity of looking to her as the *best customer*.

"But this favor is dictated by the interest of England! What more desirable, what more solid reliance can we have? Her interest is stronger than our passions, stronger than her own—more to be depended upon.

"Next as to our IMPORTS from her—Do we buy what we require—cheap? No objection is raised on this point, —the objection rather is, that we buy too cheap, and consume too much."

The state of the NAVIGATION was then considered by him, and its interests placed in a strong light. The tonnage employed in the British was more than four times as much as that in the French trade.

"It has been said," he observed with emphasis, "that this Constitution grew out of the complaints of the Nation respecting commerce—especially, that with the British dominions. What was then lamented by our patriots?—feebleness of the public Councils, the shadow of union, and scarce the shadow of public credit—everywhere despondence, the pressure of evils not only great, but portentous of civil distractions. These were the grievances, and what more was then desired than their remedies? Is it possible to survey this prosperous country, and to assert, that they have been delayed? Trade flourishes on

our wharves, although it droops in speeches. Manufactures have risen under the shade of protective duties from almost nothing to such a state, that we are even told, it is safe to depend on the domestic supply, if the foreign should cease. The Fisheries which we found in decline are in the most vigorous growth.—The Whale Fishermen whom our allies would have transferred to Dunkirk, now traverse the whole Ocean.—To that hardy race of men, the sea is but a Park for hunting its monsters; such is their activity, the deepest abysses scarcely afford to their prey an hiding-place. Look round and see how the frontier circle widens, how the interior improves, and let it be repeated, that the hopes of the people, when they formed this Constitution, have been frustrated!

"But if it should happen, that our prejudices prove stronger than our senses—If it should be believed, that our Farmers and Merchants see their products and ships and wharves going to decay together, and they are ignorant or silent on their own ruin, still the public documents would not disclose this alarming state of our affairs.

"But we are told of the injuries which result to us from the Navigation act, and of its wonderful effects on British tonnage; and are asked shall we do nothing to counteract it? Who is bold enough to say Congress has done nothing? We have laid discriminating duties.—We have made our coasting trade a monopoly; and in four years the *excess* of American over foreign tonnage has risen from more than thirty-two thousand, to one hundred and seventy thousand tons."

Ames next considered the effect of the proposed measures upon Great Britain, as to which he arrived at the same results with the author of the comparative table—"We have not yet," he observed, at the close of a very lucid argument, "taken our proper rank, nor acquired

that consideration which will not be refused us, if we persist in prudent and pacific counsels—if we give time for our strength to mature itself. Though America is rising with a giant's strength, its bones are yet but cartilages.

"By delaying the beginning of a conflict, we ensure the victory. By voting out the resolutions, we shall show to our own citizens, and to foreign nations, that our prudence has prevailed over our prejudices; that we prefer our interests to our resentments.—Let us assert a genuine independence of spirit. We shall be false to our duty and feelings as Americans, if we basely descend to a servile dependence, either upon France or England."

Near the close of the debate, Madison again took the floor.—His observations were little more than a recapitulation and expansion of those he had before used, with the exception of an intended vindication of Jefferson's statement, which was as fallacious as the Report itself.

In respect to the dispositions of Great Britain to form a treaty, he quoted Hammond's letter, stating that *he* was not yet empowered to *conclude* any definitive arrangement with respect to their commercial intercourse, but that he still meant it to be understood, that he was fully authorized to enter into a negotiation for that purpose.

He then remarked, that the Executive had equally consulted dignity and prudence in silently dropping the subject, until Hammond should receive and produce adequate powers.—It has been seen, that the powers proposed by himself to be confided to Jefferson, when contemplating his being sent to Spain, were not less restricted.*

He could not deny the prosperous condition of the Country, but to escape the inevitable and triumphant conclusion it warranted in favor of Hamilton's policy, he said, it might be ascribed to two principal causes,—the

* Infra, vol. iii. 106

Constitutional prohibition of paper money or other violations of contracts; and the abolition of incoherent and rival regulations of trade among the several States.

It cannot be denied, that the practical benefits of either of these provisions could not have been attained, had Madison succeeded in his attempted discrimination between the Public Creditors, and in his opposition to the assumption of the State debts.

The debate on these Resolutions was continued until the third of February. On that day, after an unsuccessful motion to strike out the first, and also to vary it so as to postpone the question upon it until the views of its advocates should be more fully developed in the discussion of the subsequent explanatory Resolutions, a vote was taken and it passed by a majority of five members.*

The second Resolution† being read, a motion was made by Fitzsimmons, to strike out the words "Nations not having a Commercial Treaty with the United States." —The following day, this motion was withdrawn, to give place to another which indicated distinctly the real purpose.—This was a motion by Nicholas of Virginia, so to vary the Resolution, as to except from its operation all other nations not in treaty with the United States; and to make the discrimination operate against *Great Britain*, only.

The question had now assumed a definite shape, and a definite vote might have been taken, but at this moment, upon a suggestion, that the mercantile interest was hostile to this Commercial restriction, and that time should be

* 51 to 46.

† "Resolved, as the opinion of this Committee, that an additional duty ought to be laid on the following articles manufactured by European Nations having no commercial treaty with the United States—Leather—the baser Metals—Cotton—Wool—Hemp, Flax and Silk."

given to ascertain the result of the pending negotiations, it was proposed to postpone the further consideration of these resolutions to the first Monday in March.—It was remarked, that this motion prevailed by nearly the same majority which had passed the first Resolution, and by the votes of the same members. Such was the discipline of party.—Such the triumph of the Federalists.

CHAPTER CI.

While this discussion chiefly occupied the public mind, its attention was also called to the proceedings of the other branch of Congress.

In their recent session, the legislature of Pennsylvania had chosen Albert Gallatin, an active member of that body, to fill a vacancy in the Senate of the United States.

This election was contested on the ground, that the member elect had not been a *citizen* during nine years, the term prescribed by the Constitution.

A petition to this effect, presented on the first day of the session, was referred to a Committee of elections, who, after due deliberation, reported against his eligibility. This report was referred, an inquiry was ordered, and witnesses were examined.

From their testimony it appeared, that Alphonso Albert Gallatin was born in Geneva, was an alien in seventeen hundred and eighty, and nothing was offered to show that he had acquired the character of an American citizen. Indeed, positive evidence * was given, of his

* * Depositions of John Breakhill, member of the legislature and of Henry Cammerer, who testified, "I heard Mr. Gallatin say when his name was proposed, "as to my name, it is out of the question, I have not been a citizen long enough to entitle me to serve in that station."

own declaration, that he had not been a citizen long enough to entitle him to serve in that station.

Upon this state of the case, after he had contested the right to require further evidence; and, it appearing, that he was an alien, he was required to show that he had become a citizen, and at what time.

A "Statement of facts" was then made by himself to the effect, that he arrived in Boston in seventeen hundred and eighty, had taken an oath of allegiance in Virginia in eighty-five, and had subsequently served in the Convention, and in the legislature of Pennsylvania.

But notwithstanding the time during which this matter had been in agitation, and the importance of the question to himself, no evidence was adduced by him. Upon this statement, the Senate decided, by a vote of fourteen to twelve members; that, "his election was void, he not having been a citizen of the United States the term of years required as a qualification to be a Senator."

This had been a subject of intense interest, as his vote would probably have given to the opposition a majority. In this nicely balanced state of parties, no determination satisfactory to both was to have been expected. The Democrats could easily represent it as a mere exertion of political power by their opponents to maintain their ascendancy. By the Federalists, it was felt to have been, the defeat of an attempt to subject the legislation of the Country to an individual, who had admitted his ineligibility, as to whom no evidence had been produced, other than his own statement, that he was not then an alien. In vindication of their decision, the Senate ordered the proceedings and the evidence to be entered on their journals; nor, great as was the excitement, was this decision impeached. Pennsylvania soon after filled the vacancy by the election of David Ross, a dis-

tinguished supporter of the administration. To satisfy public anxiety, the Senate opened their doors during this discussion. This led the way to a final disposition of the much disputed question, whether it should longer adhere to the practice of the Congress of the confederation. By a vote of nineteen to eight members, it was at last resolved, to sit with open doors, while acting in a legislative capacity. This body had on different occasions published such parts of its journals as it deemed consistent with the national interests to disclose. From these journals it appears, in the early part of this session, to have passed on several subjects, some having a party bearing, others involving questions of great magnitude.

That several of the members of Congress were Directors of the Bank of the United States had been a fruitful theme of clamor. Either to increase the excitement on this subject, or from sincere apprehensions of its dangerous influence, it was proposed, so to amend the Constitution, as to render ineligible to Congress, any person holding an office or stock in a bank chartered by the General Government, with a proviso, that this amendment would not imply a power to grant any charter of incorporation, or any commercial, or other monopoly. This motion failed by one vote. The fact that it came from a Senator who had recently originated a personal difference with Hamilton, may have had some weight, as it was understood to be intended to confirm the charge of Jefferson, that, through this medium, he exerted an influence over the national counsels. But more grave considerations may be supposed to have weighed. It may have been thought, that a connection between the Government and the Bank was important to the fiscal operations. The Senate may well have hesitated to mul-

tiply the disqualifications of the citizen. If the connection was an evil of moment, it might have been deemed wiser to submit to it, until it could be corrected by legislation in any future charter of incorporation, than to give the precedent of tampering with the Constitution, in concession to temporary motives of real interest, or of prejudice, or party hostility.

This motion was followed by the introduction of a bill to amend the act incorporating the Bank. After reciting the inexpediency of the Government holding stock in the Bank, or having any political connection with it, this bill proposed to repeal those parts of the charter which gave the Secretary of the Treasury the right to inspect its accounts, and also those which related to loans to the government; and to authorize the President to sell the shares belonging to the United States, and to apply the proceeds to discharge the balance due to the Bank for the subscription to its stock. The bill was lost on its second reading, by one vote.

This appeal to the jealousy of the people against what was denounced as the monied interest, merely a party movement, was followed by another proceeding, which, when all the circumstances under which it took place are recollected, was of most evil portent.

An alarm had been raised of an intention on the part of Great Britain to possess herself of a tract of Country North and West of the Ohio, by cession of the Indians; and the interruption by Spain of a free access to the Ocean through the Mississippi had so infuriated the population of the West as to have prepared them for any measures of violence. Taking advantage of this feeling, Genet, it has been seen, was at this time raising troops in the United States to levy war against Spain. At this

dangerous moment, when every motive of patriotism ought to have prompted a support of the administration, a proposition, of which the manifest object was, to induce a belief, that the government were ready to sacrifice "the essential rights of the United States," was made. It proposed so to amend the Constitution, as to declare, that the powers of the government of the United States shall not extend to curtail or abridge their limits as defined by the Definitive treaty, nor that the State rights of pre-emption to Indian hunting grounds within those limits be questioned.

Had any act of any member of the government, at any time justified the remotest suspicion of an insensibility to the true interests of the West? Washington had, indeed, entertained the opinion in seventeen hundred and eighty-seven, that policy might dictate a suspension of their navigation of the Mississippi from its tendency to check the progress of emigration; but he never hesitated a moment as to the opinion which Hamilton had recorded on the journals of the Confederation, "that the free navigation" of that great river was "a clear and essential right of the United States, and as such ought to be supported."

That the object of this motion was merely to alarm the public mind is confirmed by the fact, that it was ordered to lie on the table, and that no effort was made to resume its consideration.

Another amendment of the Constitution had been proposed, suggested by a recent decision of the Supreme Federal Court, that "the Judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by the citizens or subjects of any foreign State." This motion

was introduced by Strong of Massachusetts. A proposal of Gallatin to except from its operation "cases arising under Treaties," and another, having it in view to exclude the operation of this power from cases which had previously arisen, failed; and the original motion prevailed with but two negatives.*

It has been seen, that the House of Representatives refused by a majority of only one vote to discuss publicly the confidential communications of the President in relation to Morocco and Algiers. This injunction of secrecy was afterwards removed.

From these communications it appeared, that the object as to Morocco was to obtain a confirmation by the present Emperor of the existing treaty.

The ransom of the prisoners at Algiers had been a subject of much negotiation by Jefferson, while Minister at Paris. Secret arrangements were made by him for their support through the Spanish Consul, under the belief, that "it would forward the success" of the measures for their redemption, if the Nation should appear to take no notice of the captives. The ill success of this covert policy had determined the President to open a negotiation with the Dey—previous to which, he consulted the Senate, as to the price proper to be paid for the ransom of the captives, and for the purchase of a peace. His views were approved, and an appropriation was made. The dauntless character of Paul Jones, it was supposed, would aid this purpose; and he was selected for this mission. On his decease, Colonel Humphreys was substituted; but, at the moment of his departure, information arrived of a

* Hamilton, in the New York Convention, (1788,) was willing to insert a restriction, "That the Judicial power of the United States, in cases where a State may be a party, does not extend to criminal prosecutions, or *to any suit by private persons against a State.*"

truce concluded by the intervention of England, between Algiers and Portugal; and that eight Algerine Corsairs had passed into the Atlantic and captured several vessels of the United States.

A correspondence was opened on this subject with De Louza, the Portuguese Minister of State, who represented, that this truce had been made by the British Consul General at Algiers, in consequence of a previous request of Portugal for his interposition; but that the truce had been officiously concluded without the authority of or consultation with Portugal, and had been guaranteed by Great Britain.

This procedure gave great umbrage to the United States, and was the subject of a remonstrance to the British Court, by whom assurances were given, that "it had not the least intention or a thought of injuring the United States; that they had been applied to by their ally Portugal to procure a peace with Algiers, and had given instructions to that effect; that finding an immediate peace impracticable, their Consul had concluded a Truce, —a measure prompted by desire to serve an ally, and to obtain the co-operation of the Portuguese fleet to act against the common enemy."

The immediate danger with which the American commerce was threatened demanded prompt and efficient measures. Previous efforts had shown the little probability of a successful negotiation. It could not be accomplished without great expense, and involved the necessity of paying tribute for the freedom of the seas; which was not less repugnant to the feelings, than inconsistent with the true policy of a rapidly increasing maritime power. Hamilton saw, that this was the moment to be seized on for commencing "the establishment of a FEDERAL NAVY,"

which he had urged in the Federalist,* as one of the great motives to the adoption of the Constitution; and on the second of January Resolutions were introduced into the House relating to Morocco and Algiers.—One proposed, an additional appropriation to the provisions previously made for conducting the foreign intercourse of the United States; another, that a NAVAL force, adequate to their protection against the Algerine Corsairs, *ought* to be provided; and a third,† that a Committee should be appointed to report the Naval force necessary, with an estimate of the expense.

An amendment, that the Report should embrace "the ways and means for defraying the same," was opposed by those who considered this the proper duty of the Secretary of the Treasury; but it passed by a majority of two votes, and in this form the Resolutions were adopted.

The Report recommended the creation of a Naval force to consist of four ships of forty-four guns and two of twenty guns each, and an appropriation of six hundred thousand dollars to be raised by additional Imposts.

The same Committee being enlarged, were also directed, at the instance of a friend of the Administration, to report means for fortifying the Ports and Harbors.

Urgent as the motives appeared to be to a prompt action upon this interesting subject, such were the obstacles interposed at every stage of its progress, that the bill for a naval armament was not brought to a third reading

* No. XI. by A. H. "To this great national object a *navy*, Union will contribute in various ways." Yet, John Adams asserts, "I knew that Washington and Hamilton were not only indifferent upon a Navy, but *averse* to it," which, Jefferson says, is "corroborated by Hamilton's known anxieties for a close connection with Great Britain, to which he might apprehend dangers from collisions between their vessels and ours."—Jeff., iv. 355, 357.

† February 5.

until the tenth of March; after a strenuous effort to defeat it.

The opposition to this measure, a measure which laid the foundation of the American Navy, was maintained by Madison, Nicholas, Clarke, Findley, Giles and Smilie. Madison's hostility to a Navy is the more remarkable, when it is remembered, that in the recent debate on his commercial resolutions, he declared that "the immense advantages to result from them would repay the expense of fitting out a marine force."

In his opening observations, Giles stated, that from the previous indications of the sense of the House, there remained no doubt that this bill would pass. After scoffing at the expectations of its advocates, and wishing that every ship could be furnished with the cap of Fortunatus and the shield of Hercules, he observed; "the wisdom or folly of this measure was then matter of opinion," but "the passage of the bill would furnish futurity with a complete experiment of its true character;" that he offered his reasons against the bill not in the hope of making proselytes, but as a testimony of the real motives which influenced the opposition.

He viewed the subject, either as affording a protection to our commerce against the Algerine depredations, or as the foundation of a permanent naval Establishment.

In the former view, he pronounced it wholly inadequate to the end proposed, from its inferiority to the Algerine force, and from the probability, as the truce, which exposed the United States to other depredations, had been concluded in order to strengthen the combination against France, that that combination "would lend their aid to their allies the *Algerines*."

"There was another obvious objection to the measure, its tendency to war. It had been said, that Great Britain

was particularly irritable towards us. If so, we were to determine, whether a naval armament calculated to resist part of the combination against France, and destined to act in the scene of war, or an act imposing higher duties on some of our Imports, and making some regulations of our Navigation, had the greatest tendency to that result?

"His only consolation was, that the necessary delay in creating a Navy might prevent such a consequence—a delay proving the folly of incurring an expense which the fluctuation of European affairs might render wholly unnecessary.

"The end might be attained by negotiation. By proper management and a due attention to time and opportunity, a peace with Algiers might be effected by money.

"But in the other point of view, as the foundation of a permanent navy, he considered this bill the most important that could be presented to their consideration. It involved a complete dereliction of the policy of discharging the principal of the Public Debt. There was no instance in history of a nation continuing at the same time to increase her navy, and to decrease her debt. This exceeded the ability of any nation. The ruin of the French monarchy might be ascribed, much to that cause. It was the most expensive of all means of defence, and the tyranny of Governments consists in the expensiveness of their machinery. The same policy will produce the same effect, as in Great Britain. The expensiveness of the *Government* is the true ground of the oppression of her people. The king, the nobility, the priesthood, the army, and above all the *Navy*. All this machinery lessens the productive and increases the unproductive hands of the nation. He was astonished with these fatal examples before our eyes, that there should be any who

would wish to enter this fashionable system of politics. The United States had progressed full far enough into it. Exclusively of the Civil expenditure, a debt had been funded upon principles of duration—an army raised at an immense expense, and now there was a proposition for a Navy!

"The system of governing by *debts* he conceived the most refined system of tyranny.—It seemed to be a contrivance devised by politicians to succeed the old system of feudal tenures—both were tyrannical, but the objects of their tyranny different. Feuds operated upon the person—Debts, on the pockets of the Individual. Under the former, the Lord was gratified with the acknowledgment of the tenant that he was a slave, and the rendition of a Pepper Corn as evidence of it.—The product of his labor was left for his own support. The latter affords no such indulgences. Its true policy is, to devise objects of expense, and to draw the greatest possible sum from the people in the least visible mode. It consults the obedience, not the happiness of the people, "There is no device which facilitates the system of expense and debts so much as a navy, and he declared that he should value his liberty at a lower price than he now did, if this policy should obtain. He saw another strong objection; a navy was a hostage to its full value for our good behavior to the great naval powers, until it should be able to contend with them for the Ocean. It will increase, rather than lessen our dependence.

"As to their utility in increasing the security for the collection of our Revenue, these vessels would be aquatic Sheriffs of the most expensive order.

"These objections might have force," it was observed by Smith of South Carolina, "if this measure were one of choice, not of necessity. It was extorted by the

pressure of unavoidable events. The question was simply, whether our Commerce required protection against the Algerine Corsairs, and whether this was the best mode of protection. The first part of the question was admitted. Various substitutes had been offered—either to purchase a peace;—to depend on Portugal rescinding her truce; to pass Commercial Regulations against Great Britain, or to subsidize other nations to protect our Commerce.

"The purchase of a peace, late communications had shown, unless there was a manifestation of some force on our part, was impracticable. While our vessels offered so easy and so tempting a prey to the cupidity of those rovers—it would be vain to expect they would sell a peace for the price the government would give; or that a peace so bought would be of any duration.

"If, when one or two vessels had been captured, and these captures were confined to the Mediterranean, such difficulties had been experienced, what prospect was there of success after the capture of so many ships, when so many more were likely to be taken, and when the Algerines were at liberty to cruise in the Atlantic even to our very coasts?

"Even that little prospect of success would be diminished, when the Dey should understand, that we took no measures to protect our trade, and were afraid of the expense of a small armament.

"As to the rupture of the Truce with Portugal, shall we place our commerce and the liberty of our seamen on so precarious a footing? He believed, notwithstanding what had been stated, that the Truce was made with the consent of Portugal; and that peace would be maintained as long as the policy of Great Britain should dictate.

"But the commercial restrictions aimed at Great Brit-

ain were to check these depredations! Admitting their efficacy, which like a panacea was to cure all our ills, the remedy must be very remote. Were they to pass, a distant period must be assigned for their operation. Time must elapse before their effect is felt by Great Britain, and further time, by their re-action, by Algiers. In the interval, our Commerce will be plundered, and many of our citizens rendered slaves.

"As to a subsidy of Foreign Powers, beside the national dishonor of depending upon others for that protection which is in our own power, there were several objections.

"Either the Nations in view were at peace with Algiers, or they were not. If at peace, would they relinquish that peace for any indemnification the United States could make them? If at war, they had sufficient inducement to check the depredations of their enemies without our subsidies. But such a protection would be hazardous, as it would, at any time, lie in the power of the nation we should employ, when engaged by any other power envious of our prosperity, to conclude a truce with Algiers, and leave us at the mercy of her Corsairs.

"Having a navy of our own we might co-operate with any of the powers at present at war with the Algerines, but it would be risking too much to depend altogether on any of them.

"It was alleged, that the force contemplated was incompetent. It was believed, after diligent inquiries, that it was adequate to its object. The Algerine rovers being light and not cruising in fleets, a less force had been successfully employed by Portugal.

"But why, if it was deemed incompetent, had not those who opposed the bill proposed an augmentation of the naval strength? The only motion of that nature

had proceeded from a quarter always friendly to the measure.

"But it would involve us in a War! If there is any nation so anxious for War, as this objection supposed, she would be at no loss for pretexts. Such an interference with the exercise of our power, he should regard as the effect of a premeditated hostility, and should not hesitate to consider the aggressor as much our enemy, as the Algerines. This was a chimerical terror, and was the more extraordinary as proceeding from those who considered the commercial restrictions particularly directed against Great Britain, as of a most pacific tendency.

"The expense had been urged as a weighty objection; but against this, the saving in insurance, the value of our ships and cargoes,—the ransom of our seamen were more than an offset. But were not the slavery of our fellow-citizens, and the national disgrace resulting from it, to be taken into account? These were, in his mind, considerations beyond all calculation. Who, after reading the affecting narratives of the unfortunates, could sit down contented with cold calculations and dry syllogisms? These ought to excite every possible exertion, not only to procure the release of the captured, but to prevent an increase of the number of these unhappy victims.

"The lateness of the Season had furnished another objection.

"Whose was the fault that this measure had not been adopted sooner? The friends of it had urged its necessity near three months ago; but the persevering opposition it had encountered, and the intervention and discussion of the Commercial Regulations had protracted it to the present period. Late as it was, it was highly necessary, and the best expedient which had been suggested. He wished it to be understood, that he did not rely solely on

the efficacy of this armament, he still looked to a negotiation; and was ready to provide ample means for that purpose, but to succeed, the first measure must accompany the latter.

"How a bill providing for six frigates, to exist during the War with the Algerines, could excite apprehension of a large and permanent navy, and of an enormous debt, he was at a loss to discover. Had not the bill empowered the President to discontinue the armament, in the event of a peace? He did not feel the weight of the reasoning. This country was peculiarly fitted for a Navy. Abounding in all kinds of naval resources, we had within ourselves the means which other maritime nations were obliged to obtain from abroad. The nature of our situation, and the navigating disposition of a considerable portion of our citizens evinced still more the propriety of some Naval establishment. Perhaps the Country was not yet mature for such an establishment, to any great extent; but he believed the period was not far distant when it would be. He saw no reason why the United States, with an increasing population, much individual wealth, and considerable national resources, might not without ruin maintain a Navy; or why the equipment of a squadron inferior to that of any of the petty nations of Italy should involve us in an insupportable expense."

A short time after the close of this debate, the House passed an act authorizing the President to fortify the more important ports and harbors of the country. This, together with the act for a Naval Armament, was concurred in by the Senate, with some amendments, and was approved by the President.

Several messages relating to the foreign relations of the United States were submitted to Congress, during this debate. One embraced a Report of the Legislature of

South Carolina giving the details of the raising of an armed force under Commissions of Genet, within her borders, to rendezvous in Georgia, and thence to attack the dominions of Spain, and the suppression of it by that State. A letter from Genet to Jefferson, which had been held back, was also communicated, in which he avowed the fact.

The President not choosing to dismiss this Envoy, Hamilton prepared a Message to Congress, stating the organization of these expeditions. It declared, "Proceedings so unwarrantable, so derogatory to the Sovereignty of the United States, so dangerous in precedent and tendency, appear to render it improper that the person chargeable with them should longer continue to exercise the functions and enjoy the privileges of a diplomatic character. The supersedure of the exercise of those functions, nevertheless, being a measure of great delicacy and magnitude," the President, "had concluded not to come to an ultimate determination, without first placing the subject under the eye of Congress. But, unless either branch of the legislature should signify to him their disapproval of it, that he should consider it his duty to adopt that measure after the expiration of a specified time."

The message was not communicated. If, besides other considerations, a desire to shield Washington from the charge of usurpation on the alleged ground, that he was empowered to receive ambassadors and other public ministers but not to dismiss or suspend them,* led to this inaction, the past narrative has shown, that the submission of such a question under such circumstances to Congress would have been little consonant with Hamilton's views.

* In the treaty soon after made with Great Britain, the right "*immediately to send home* for personal misconduct, the ambassador or minister of the other, without prejudice to their mutual friendship" is expressly stipulated.

Intelligence was soon after received, that Genet had been recalled, and of the unequivocal disapproval of his conduct by the new Rulers of France. The party of the Girondins had been overthrown by the Jacobins.

Congress were also informed, that the Representatives of Spain had recently avowed, that "the opposition which the Governor of Louisiana had hitherto made and intends to make to the passage along the Mississippi by the citizens of the United States was neither unjust nor extraordinary, as we have been, are, and will remain, in possession of it, until, by agreement or force, we yield our right." A dispatch of Pinckney stated his conviction, "of the desire, both of the government and people of Great Britain to be on good terms with the United States, but that in the conduct pursued towards Neutral powers there were no symptoms of relaxation."

The Commission of Guadaloupe were invoking Congress, on the faith of the treaties with France, to grant succors of provision and ammunition.

In every direction clouds lowered over the horizon.

The temper evinced by the opponents of the Administration during the recent debates on the Commercial Resolutions was decisive as to their purpose.

All the influence of the press and of the clubs was brought to bear upon public opinion; and the same concert which had been remarked in relation to Genet was again manifested.

The rapid growth of the Democratic party in the Southern States had shown that, all that was requisite to assure to it an entire ascendancy, was to produce defection from the administration in New England.

The violence manifested in Boston by the partisans of France had excited the hope, that the same party which had been predominant in Massachusetts during the con-

federation, which had opposed the adoption of the Constitution, which had been distinguished for their jealousy of the powers of the General Government, might, under the influence of a strong prevailing predilection for the cause of France, regain its power.

It was of the greatest moment to the opposition to keep alive these feelings; and no more efficient mode of doing this, it was supposed, could be resorted to than that of stimulating their slumbering hostility towards Great Britain.

To induce a belief in the minds of the people of the East, that her commercial policy was not only less prejudicial than that of France, but a designed warfare on the interests of America, was an object deemed worthy of every effort.

The Report of Jefferson as to the Fisheries at a former session might have served to show the solicitude of a leading Individual of Virginia for the navigating interests of the Union; but, did any doubt exist, his Report on the Restrictions of Commerce, it was hoped, would place the late Secretary of State conspicuously before them, as the champion of their trade. Could this be accomplished, his advancement to the highest station in the Country would be secured.

But the difficulty of reconciling a population, chiefly dependent on Commerce, to immediately increased burthens on their industry for a doubtful and remote benefit, was foreseen.

This, it required not a little skill to overcome. There was a show of reciprocity in the Commercial propositions; and it was hoped, that the last of the Resolutions, offered by Madison, promising a reimbursement of the losses sustained from the operation of the particular regulations of any country contravening the laws of Nations, out of the

additional duties to be charged on the exports and tonnage of that Nation, would be regarded as decisive evidence of his attachment to the interests of Trade.

The leading Representatives from Massachusetts saw and exposed the design of this Resolution, and thus drew upon themselves the most virulent attacks. False versions were published of the speeches of Dexter and of Ames.

The opinion of the former, that the more important interests of the Country ought not to be sacrificed to enlarge its navigation was perverted so as to exhibit him as an enemy of the carrying trade; The language of Ames, expressing his veneration for Republican principles was distorted into terms of disrespect for free government; and, in consequence of his motion to postpone the consideration of the Commercial Report in order to ascertain from the correspondence with Great Britain whether she was disposed to form a Commercial treaty, which the author of that Report had pronounced a preferable measure, he was charged with having declared that Great Britain was amicably disposed towards the United States.

All these allegations were disproved. They were all reiterated.

"That those who will follow servilely for a time will soon lead public opinion is a cardinal maxim in the creed of the demagogue. The difficulty and the point of danger is to ascertain the direction, and the force of the popular current.

But no such difficulty or danger was to be encountered by the advocates of France, provided they could avoid coming in direct collision with the personal popularity of Washington.

Between the Leaders and the mass of the democratic party there was an entire unison of sentiment.

The latter had found objects of encomium in many, justification for most, palliatives for all the atrocities of France. Their clubs urged a* closer connection with that Country; that all attempts to alienate the affections of the people from her ought to be resisted; and charged that the exposure of Genet was the effect of Foreign influence.

The leaders thus sustained, followed implicitly the policy of that Nation, and the closest coincidence may be traced between her invitations and their measures.

In a moment of passion, Genet publishes his instructions. These instructions direct him to induce the United States to make common cause with France, against her enemies, by a mutual understanding, "to befriend the Empire of Liberty" by declaring that their vessels shall not be received in the ports of the contracting parties.

Jefferson, quoting these instructions, wrote to Madison,† "It is impossible for any thing to be more affectionate, more magnanimous than the purport of his mission;" and at his own selected time, brings forward a Report, which had long slumbered, for a Commercial warfare with all Nations, not in Treaty with the United States.

The disclosure of the fact, that Genet was levying War against Spain, produces no change in the action of the party. He avows the fact, they utter not a murmur of reproach.

The Commercial Resolutions are based on the hostility of the British Navigation Act. As a measure of counteraction, France also passes an Act of Navigation, equally hostile in its principle and scope.‡ No change is perceived in the policy of her partisans.

* Resolutions of Democratic Society of Philadelphia, Jan. 9, 1794.

† May 19, 1793.

‡ "The principal end" of this act was stated in the Report of the National

Hamilton, who had long seen and deprecated the dangers of foreign influence, felt that to rescue this infant country from the coils of this Serpent demanded every effort of the Statesman.

He had opposed, before the Representatives of the Nation, on the very threshold, the rash and insidious attempts to involve this Country in war; and he now resolved again to appeal to the people through the press,—almost despairing, yet indulging the hope, that they might be persuaded to their welfare.

In the midst of invectives and of menaces, he appeared before the Public under the signature of "AMERICANUS" at the moment * when the first vote was expected to be taken on Madison's "Commercial Resolutions."

These essays, he says, had been prepared some time before, but from particular circumstances had been postponed. "The fresh appearances of a covert design to embark the United States in the war induced their publication at this time."

Their object was stated to be, "an Examination into the question how far regard to the cause of Liberty ought to induce the United States to take part with France in the present war."

To form a right judgment on this point he deemed it requisite to consider the question under two aspects, "Whether the cause of France be truly the cause of Liberty, pursued with justice and humanity, and in a manner likely to crown it with honorable success; and whether

Convention to be to destroy the interposition of all indirect navigation and to put a stop to the intermediate carrying trade.—The idea of an indefinite commercial freedom was assimilated to the Universal Republic of Plato—"a brilliant imagination—a pompous theory." In F. R. 1, 316, 321-323, will be seen the similarity of Madison's views and of this Report.

* February 1, 1794.

the degree of service we could render by participating in the conflict was likely to compensate by its utility to that cause, the evils which would probably flow from it to ourselves."

After stating that there was a period "when all men in this country entertained the same favorable view of the French Revolution," Hamilton gives a bold and rapid sketch of the atrocities which had since marked its career, and predicts, that "after wading through seas of blood in a furious and sanguinary civil war, France would find herself at last the slave of some victorious Sylla, or Marius, or Cæsar."

Her Revolution, he feared, instead of being entitled to the honors due to the sacred and important cause of Liberty had given it a deep and serious wound.

In order to determine the second inquiry, he took a survey of the means by which the United States had carried on the War of the Revolution, from which he drew the conclusion, that by external exertions the aids to France could not be material.

Without a fleet, they could not relieve her West India possessions nor assail those of her enemies. An attack by a land force on the contiguous possessions of England and of Spain was the only remaining Military co-operation. But in this the attempts would be either abortive from inadequate preparation, or the delays incident to such preparation would be so great, that the fate of France might be in the interval decided.

Depredations by Privateers upon her Commerce and a suspension of Commercial intercourse with England were the only remaining means of annoyance. Notwithstanding the injuries which could be thus inflicted and the recent shock of her credit, he believed the resources of that Power was so great, and her credit had such energy, that

these injuries would not arrest her career, or overrule those paramount considerations which had engaged her in the contest. But, if she should be inclined to withdraw from it, he supposed that she was committed by direct engagements which she could not violate.

The conclusion was, that, if France was not wanting to herself, she would not require the assistance of the United States, and if she was, their assistance could not save her.

He, in the next place, took the more interesting view of the effect on the United States of their becoming a party to the war.

One consequence would be a check to the progress of their unexampled prosperity, which prosperity, if continued a few years, he said, would "place our National rights and interests upon immovable foundations, and open advantages which imagination can with difficulty compass."

Other results would be the annihilation of their trade; and, as the public revenues were chiefly derived from commercial duties, the exaction of heavy burthens, or a sacrifice of the Public Credit, and a general Indian War.

"Let us," he remarked, "at least have the consolation of not having rashly courted misfortune. Let us, if we are involved in the war, act under the animating reflection of being engaged in repelling wrongs, which we neither sought nor merited; in vindicating our rights invaded without provocation; in defending our honor violated without cause. Let us not have to reproach ourselves with having voluntarily bartered blessings for calamities."

He then adverted to the alleged possibility, that if France should be subdued, the United States might become the next victim.

"To subvert by force Republican liberty in this Country nothing short of entire conquest would suffice. This would be impracticable or ruinous to the combined powers already exhausted by their previous efforts.—The state of France and of Poland would require constant vigilance and the ready command of all their resources. But were it practicable, there would be no adequate objects. The Powers having American Colonies could not desire the introduction of a Monarchical government here, which "however disadvantageous the change in other respects, would from its superior force insure more effectually than the present form, our permanent Unity as a Nation."

"Each would contend with the other who should be the Master; and neither, without madness, could desire a mastery which would cost more than it was worth to maintain it, and which from an irresistible course of things could be but of very short duration. A partition of the United States would be as difficult, as improbable, and as transient.

"A future attack upon the United States would be without a pretext, our observance of neutrality will have entitled us to friendly dispositions. Our danger must arise from voluntarily thrusting ourselves into the war, which, regarded as a wanton and presumptuous interference, might prompt the most violent proceedings.

"The combined powers, unless we assimilate our conduct to that of France, will regard us with different feelings. They will see in us sincere Republicans, but decided enemies to licentiousness and anarchy—sincere Republicans, but decided friends to freedom of opinion—to the order and tranquillity of mankind.—They will not see in us a people whose best qualities have been perverted from their true direction by headlong, fanatical or design-

ing leaders, to the perpetration of acts from which Humanity shrinks."

"Let us content ourselves," he urged, "with lamenting the errors into which a great, a gallant, an amiable, a respectable nation has been betrayed, with uniting our wishes and our prayers that the Supreme Ruler of the World will bring them back from those errors to a more sober, and more just way of thinking and acting; and will overrule the complicated calamities which surround them to the establishment of a Government under which they may be free, secure and happy.

"But let us not corrupt ourselves by false comparisons or glosses, nor shut our eyes to the true nature of transactions which ought to grieve and warn us, nor rashly mingle our destiny in the consequences of the errors and extravagances of another Nation."

CHAPTER CII.

Could dignified forbearance—scrupulous effort to perform the duties of Neutrality—constancy in resisting the tide of popular prejudices—energy and foresight in counteracting the persevering arts of a powerful and factious party, have insured the continuance of peace to the United States—all these qualities had been exhibited.

Sustained by the deep and wide popularity of Washington, thus far they had been successful.

But recent aggressions on its neutral rights now caused the most calm and temperate to fear that the path of peace was no longer, for this Republic, the path of honor, or of safety.

This change in the prospects of this Country proceeded from an act of the Government of Great Britain, as sudden as it was unexpected.

On the sixth of November seventeen hundred and ninety-three, Additional instructions were issued to her ships of War and privateers to detain all vessels laden with the produce of any Colony of France, or carrying supplies for the use of such Colony;—and to bring them with their cargoes, for legal adjudication before her Courts of Admiralty. At a moment when France was in a most enfeebled condition, when Sweden was her only maritime ally, Russia having a limited Commerce, when

the Neutral powers, sympathizing with Prussia, and alarmed at the alliance of Austria with the French, were little tenacious of their rights, England revived a rule, called the rule of seventeen hundred and fifty-six, which prescribed, that a Neutral nation could not, during war, carry on a trade prohibited to it, in time of peace.

This rule was not enforced during the War of the American Revolution; nor had it ever been recognized as a part of the law of nations.

Yet now, without any act of the American government to warrant it, these Instructions were issued, in their effects, more comprehensive, and more rigorous than this unsanctioned rule.—For they did not leave the inquiry open as to what had been the peace trade with the Colonies of France, but subjected it all to an indiscriminate condemnation.

The first information of this order in Council was preceded in the United States by narratives of the interruption of the West India trade—of the seizure, detention, and condemnation of not a few, but of fleets of American vessels, after vexatious delays, and upon frivolous pretexts.

Following the alarm which the recent piracies of Algiers had spread along the seaboard, this order was believed to be the beginning of a deliberate system for the extirpation of American Commerce. The already excited feelings of the Nation kindled with indignation, and burst into a blaze.* Meetings of the merchants were

* Ames writes—"The irritation against England has gained upon the sentiment of the House; and to speak truth, the causes for it are more manifest" * * "I do not believe that she intends to force us into a war; but she intends to make our neutrality unpleasant to our feelings, and unprofitable to our navigation, &c.; and in doing this, she probably cares little whether it is war or peace. Our gallicism hurts her pride, and she is heated

held in the Sea Ports, at which, with details * of the wanton and frequent violations of neutrality, were mingled loud and earnest demands of redress.

An authentic copy of the "atrocious" order, as Hamilton designated it, was received at Philadelphia on the seventh of March. Determined to resist it in the outset, he, the next day, addressed the following note to the President.

From this note it will appear that, as he was the first to suggest the Proclamation to preserve the peace of this Country, endangered by the artifices of France;—he was also the first, to advise measures of armed resistance to Great Britain.†

"The present situation of the United States is undoubtedly critical, and demands measures vigorous though prudent. We ought to be in a respectable military posture, because war may come upon us, whether we choose it or not; and because, to be in a condition to defend ourselves, and annoy any who may attack us, will be the best method of securing our peace. If it is known, that our principal maritime points are out of the reach of any but formal serious operations, and that the Government

enough to punish all the friends of her foes."—"The resolutions can only aggravate the danger, and diminish our preparation against it."—Ames i. 135.

* A statement of the spoliations on American Commerce since the beginning of the War was communicated to Congress on the 5th of March.

† R. R. Livingston to Monroe—Clermont, April 8, 1794. "I well knew that if the public sentiment should be awakened to the injuries we have received, that the party opposing that sentiment would soon be deprived of their confidence, and that the President was too fond of popularity to support them against the opinion of the people."—"I see, that you have blown up Sedgewick's scheme. It never gave me much uneasiness.—It was too ridiculous and too much in the face of the Constitution."—He then advises an early exhibition of hostility to England, and regrets that the Federalists "were *the first* to exhibit firmness towards her."

has an efficient active force in its disposal for defence or offence on any emergency,—there will be much less temptation to attack us, and much more hesitation to provoke us.

"It seems then advisable—1. To fortify the principal ports in the several States (say one in each State) so as to be able to resist a merely maritime attack, or any thing but a regular siege. 2. To raise ten thousand auxiliary troops."* "In addition to this, the Legislature ought to vest the President of the United States with a power to lay an embargo, partial, or general; and to arrest the exportation of commodities, partially, or generally.

"It may also deserve consideration, whether the Executive ought not to take measures to form some concert of the Neutral powers for common defence.

* Upon a plan something like the following, viz.: To be divided into ten Regiments.—Each Regiment to consist of two battalions and of the following officers and men.—1 Colonel, 2 Majors, 10 Captains, 20 Lieutenants—2 Lieutenants and Adjutants—2 Serjeant Majors, 40 Sergeants, 4 Musicians, and 1,000 rank and file.

These troops to be engaged upon the following terms—To be enlisted for two years; but upon condition, that, if a war should break out with any European power, they shall be obliged to serve four years from the commencement of such War, upon the same terms as the troops of the establishment.—To receive as a bounty, clothes with 12 dollars per man.—To be under an obligation to meet 40 days in the year, and 30 of these days to encamp.—When assembled, to be paid, officers and men, as the troops of the establishment, and to have the same subsistence and rations. To be furnished with arms and accoutrements by the United States, to be surrendered at the expiration of their term of service.

"The Officers in time of War to rank and rise with the Officers of the Military Establishment.—The arrangement to cease *ipso facto*, at the expiration of a certain term (about two years).

The expense of these operations would be—

For the fortifications	$150,000
For the auxiliary troops per annum . . .	350,000
	$500,000

"Mr. Hamilton presents his respects to the President, and submits to him some reveries which have occupied his imagination. It may be interesting for the President to consider, whether some such plan is not demanded by the conjuncture of affairs; and, if so, whether there ought not to be some executive impulse. Many persons look to the President for the suggestion of measures, corresponding with the exigency of affairs. As far as this idea may be founded, many important and delicate ideas are involved in the consideration. The pains taken to preserve peace, include a proportional responsibility, that equal pains be taken to be prepared for War." *

It will not escape attention, as bearing upon the habitual charges against Hamilton of being swayed by a predilection to Great Britain, that these preparations for War were suggested by him at the very moment when the authors of those charges were seeking to defeat the establishment of a Navy.

On the last day of the discussion of the bill for a Naval armament, a motion was made to recommit it on a question of form.† It failed. This motion was followed by a renewed opposition, but, on the tenth of March, the bill passed by a vote of fifty to thirty-nine—the majority having increased from two to eleven members, who preferred the obligations of patriotism to those of party.

The same day, a notice of his intention to offer resolutions to carry into effect, Hamilton's recent suggestions to the President, was given by Sedgewick. ‡

* Hamilton's Works, iv. 506.

† Madison writes to Jefferson, March 9, 1794, "The project of a squadron of frigates is still pursued. * * * As the danger of a war has appeared to increase, every consideration rendering them at first unwise, now renders them absurd.—Yet the vague idea of protecting trade when it most needs it, misleads the interested, who are weak, and the weak who are interested."

‡ Randall is careful to omit mention of Hamilton's Note of the 8th March

He observed, that he had heretofore done himself the honor to declare to the House, that in his opinion, it was the duty of the Legislature, as the guardians of the public safety, at a time when Europe was convulsed, and this Country suffering many injuries, to provide for its defence, and, as events might happen, to avenge its injuries—that the preservation of peace, an object so necessary to our political and individual happiness, might materially depend on the wisdom and the firmness of the Legislature, in this respect.

He had hoped and expected some plan for those important purposes would before this time have been presented to Congress.—In his opinion, it would be unpardonable to leave our Country in this naked and exposed situation, during the approaching recess.—It ought no longer to remain uncertain, whether the property and best interests of our Citizens were to remain in a situation to be insulted and injured with impunity.

He would forbear to give even the outlines of the system which his own mind had embraced, because he should always be willing to prefer any other more competent to the end.—His only object then was to call the reflections of the House to this important subject.

On the twelfth of March, the majority, unwilling to incur the censure of opposing measures of defence, having permitted a bill for the defence of certain Ports and Harbors to become a law,—Sedgewick brought forward the contemplated Resolutions.—They provided that fifteen Regiments, each to consist of one thousand men, of auxiliary troops, should be raised, armed, and equipped—to be enlisted for two years, but, if War should break out with-

to the President, as it would interfere with the oft-repeated charge of Anglicism, though he mentions this motion of Sedgewick so analogous to that note of Hamilton.—Randall's Jefferson, ii. 230.

in that time between the United States and any foreign European Power, that they should be bound to serve for the term of three years, after the commencement of the War, if it should so long continue.

The officers were to have equal rank and command with those of the existing establishment.—The soldiers to be entitled to a bounty of a suit of clothes per annum with twelve Dollars, with compensation for each day they shall assemble for the purpose of training or exercising, which, except in case of War, shall not exceed twenty-four days in one year,—to be furnished with arms and accoutrements at the expense of the United States, to be returned at the expiration of their terms of service.

That adequate revenues for raising and paying them should be provided—that within two years and six months after the time prescribed by law for beginning to raise these troops, if no war shall occur,—the Regiments should be abolished and cease; and that the President should be authorized to lay an embargo, generally or particularly, for a term not to exceed forty days; and to prohibit, for a like term, generally or particularly, the exportation of Commodities—such embargo or prohibition to be continued from time to time, until the expiration of fourteen days after the commencement of the next Session of Congress.

The mover of these Resolutions avowed, that the great object which ought to direct their deliberations should be the preservation of peace. In the infant state of the government and under the peculiar circumstances of the Country, it had much to lose, and nothing to gain by war. It had progressed in the means of happiness with a rapidity unknown in history, and enjoyed more, independent of the pressures now complained of, than any other nation.

This added to the injury of disturbing their happy situation, but at the same time rendered it the indispensable duty of the guardians of the public security to proceed with caution; and coolly and temperately to examine every step that might be taken at that important conjuncture. During the conflict which convulsed Europe, the conduct of the Government had been irreproachable—always just.—As the last appeal had been made by the belligerent Powers, it wisely determined that we had no right to decide on the justice of the War, nor to influence its events. Thus wisely determining and honorably conducting, the rights of neutrality ought to have been assured to us. But neither our sentiments nor our conduct had been reciprocated by the belligerent Powers.—The honor of the Country had been insulted, and its rights of property violated.

Though peace ought to be our object, there was a point beyond which injuries would become intolerable. That point he hoped was not yet approached, but, if recent information was correct, Great Britain, if not fully determined on hostility, was at least indifferent to that event.

Peace being their object, they ought, he said, to present to the belligerent Powers, motives of policy and interest to co-operate with considerations of justice.

The force proposed would enable the United States to present a firm countenance of resistance in any part of their territory.

There is another object of importance:—Great Britain is ardently pursuing conquests in the West Indies, to indemnify herself for her expenses in the war. Her colonial possessions on this continent are the sources from which she hopes to supply these West India colonies. They are therefore dear to her; and as she extends her

West India dominions, these will be the objects of her regard.—They are within striking distance of us. Though, I hope, the ambition of conquest will never direct the government of this country, yet, if injuries become intolerable and retaliation our duty, we must inflict wounds on those parts where our enemy is vulnerable. When Great Britain shall reflect that so severe a revenge may be taken, that the means of inflicting it are already in the hands of the Government, she will be cautious of wantonly incurring our resentment.

These were his objects. There might be objections to them, plausible, perhaps solid.—There was one respectable from the motive in which it originated—the jealousy of freemen of a standing army, and the consideration that a militia should be the instrument to defend and secure the existence of Republican Institutions.

To a certain extent, the principle was correct, the jealousy well founded. This principle and this jealousy had influenced the conduct of the patriots to whom the defence of America was intrusted, after the commencement of the Revolution.—But, by experience, the only unerring guide in political investigations, it was discovered that the principle was extended too far.—By it, the Union was brought to the brink of ruin; and was only saved by an immense expense of life and treasure. Owing to their short enlistments, the militia are incompetent to long-continued exertions.—If for a longer term, though they may be called militia, they became possessed of all the properties which are the sources of the jealousy of standing armies.—If for short periods, just as they assume the character of soldiers, their term expires.—They cannot be induced to continue beyond the specified time, and hence, at stated periods, the country is left naked and defenceless.—The expense is two or three to one; and the

want of discipline and subordination produces a prodigious waste of public and private property, and a lamentable waste of life.

While our sole dependence is on militia, Foreign Powers will not believe we possess either the will or the power of vindicating our rights, or retaliating their injuries. By the plan proposed, if no war should occur within two and a half years from the time of enlistment, the force is to be disbanded. They are to be trained twenty-four days in a year, and never, but in detached corps. During peace they will remain dispersed; and almost the whole time reposing in the bosom of civil society. Such a force cannot be formidable to the liberties of the people. It is impossible, they should suppose they have interests distinct from or opposed to those of the community of which they are a part. He next stated the expense. This was estimated not to exceed four hundred thousand dollars. These auxiliaries, with the five thousand troops of our regular establishment, would enable us to bring into the field twenty thousand men—a number competent to any object for which they might be wanted.

The Resolutions contemplated an Embargo.—If necessary, this duty can be performed better by the Executive, than by the legislature.—In a legislature, it is impossible to preserve secrecy, and from the delays which the necessary forms require, the effect of the measure would be lost before finally adopted. The reasons of this Embargo are, that Great Britain cannot supply her West Indies, except from the United States. If this is, in any degree, true in peace, how much more powerfully will it operate during War;—they must abandon their favorite project the conquest of the French West Indies. On great occasions, confidence must be reposed

in the Executive;—and in the present head of that Department, that confidence will not be abused.

When in the situation these Resolutions propose to place us;—if we are obliged to exert the means in our power for our defence, we can speak a manly language to all who may attempt to insult us.

If a country does not respect itself, it will not be respected by other nations.—If a nation is not vigilant in guarding its rights, it will soon have no rights to guard.—If nations receive insults and injuries with impunity, they will suffer injuries and insults without end.

This is not the time for feeble measures.—A manly conduct ought to be pursued—a conduct worthy of our brave constituents.—They have bravery to assert, and resources to vindicate their rights.

He did not wish the government to speak in the language of intimidation, but in the manly tone and in the language of a free and independent Nation, conscious that she possesses rights and has the means of defending them. We should tell the belligerents, that we can make very reasonable allowances for a state of War; that we have rights which must not be the sport of wanton and unprovoked violation.—We should mark a line, and boldly declare that we will not permit it to be transgressed.—Such firm and manly language, backed by the means of enforcing respect and retaliating injuries—a capacity of withholding the supplies necessary for the prosecution of a favorite project—a respectable and active force, ready to strike in a vulnerable quarter.—Such language under such circumstances must be heard; and he trusted, would produce the desired effect.

He had the more confidence in this result, as Great Britain can have no possible motive, interest, or ambition in a war with this Country. She was now straining

every nerve, and exerting all her resources. The interruption of her Commerce with us would, in some degree, affect those resources; and, on the other hand, there was nothing in our conduct of which she could justly complain. She had no injuries to revenge, nor any benefits to obtain by hostility with America.

As to the funds to execute this plan, he entertained a firm reliance on the patriotism of the American people, who would cheerfully contribute in support of their rights, and in vindication of their national honor.

As to the suggestion of a direct tax,—he did not believe it was yet necessary to touch that great resource. If unnecessary, it is inexpedient. But if it must be recurred to, he believed the people had virtue and patriotism enough to bear it without murmuring.—This course he believed would so impress the Nation of whom we complain, that for her own interest, she will permit us to continue in a state of tranquillity and friendly intercourse with her.

These remarks give a correct outline of Hamilton's policy. To preserve an honorable neutrality, if practicable—to deter from injury by preparation—being prepared, to hold a firm, determined language; and, if assailed, to strike an early decisive blow.

With this view, as a preliminary measure for the protection of the American Commerce, it was moved on the fourteenth of March to consider the Resolution empowering the President to lay an Embargo, but this motion was lost, the opposition insisting upon pursuing the resolutions of Madison.

A letter from him of this date to Jefferson ascribes the recent military propositions of Sedgewick to Hamilton. "His prompter," he says, "will be seen both in his speech and in his propositions." Whether they were intended

merely "to embarrass" his Commercial resolutions, "was doubted;" but he was clear, one of the objects was, that "of turning every contingency into a resource for accumulating force in the Government;"—that "the ostensible reason for the provisional army was absurd."—"We contend," he wrote, "that the Commercial restrictions ought to make part of our Code until the end be obtained; and that they will be proper, whether we are to be at peace or War. In the former case, they will have their intended operation. In the latter, they will put our government on the right ground for negotiation."

The total fallacy of this policy was fully shown, when it was essayed at a subsequent period by the present originators of it.* Yet two days previous to the date of this letter, Madison had written to Jefferson: "This new symptom" (the captures in the West Indies) "of insolence and enmity in Britain shows either that she meditates a formal War, as soon as she shall have crippled our Marine resources; or, that she calculates on the pusillanimity of this Country, and the influence of her party in a degree which will lead her into aggressions which our love of peace will no longer bear." †

The question on Madison's "Resolutions" had now assumed the distinct form of a proposition for Restrictions upon Great Britain, Nicholas having renewed his propose amendment to confine it to that country.

The friends of Hamilton, in addition to their former objections to this system, stated, that they were peculiarly inappropriate to the present aspect of affairs.—The aggressions had been wholly on the part of Great Britain.—They justified an immediate declaration of war, but prudence forbade it for the moment. Preparations for war—effectual measures for their protection ought to

* In 1807. † March 12, 1794.

engage their attention. Peace might yet be preserved, and we should adhere to our neutrality, until war was unavoidable; but, in the mean time, we ought to exhibit an unanimous determination to prepare for it; and to resist any European combinations.

The defence of the sea coast, the organization of troops and of sources of Revenue, not dependent on commerce, to nerve the sinews of war, ought to be the first objects of their care.—Until these objects were accomplished, all measures of a hostile appearance ought to be avoided.—These Resolutions had an irritating and therefore hostile tendency, and yet were entirely impotent in case of hostility.

Giles declared that, he considered the Commercial Restrictions as powerful auxiliaries to any other measures prudence might dictate.—This system, at the close of a war, would form the best ground of a negotiation;—and would secure from Great Britain an equivalent for any relaxation of it. If war is to ensue, they can do no harm; and, at its termination, must produce much good. The first operation would be to increase the revenue. The importation would only be discouraged by degrees; and then, a spur would be given to our manufactures.

It was observed, in reply, that the Resolutions discriminate between foreign countries, because we hate the one and love the other; and tax our Citizens to gratify those passions—an objection resting on the immutable interest of this Country, to be detached as much as possible from foreign politics.—It is true, the adoption of them will not prevent others more energetic; but we should think of defending ourselves, not waste our time in discussing commercial theories.—Who, without knowing the issue of a war with Great Britain, can pronounce what the effect of these Resolutions may be at its close? Why

discriminate? What nation is now conferring on us benefits? If we are involved in a War with Britain, we shall not remain at peace with Spain.—At its close, a relaxation in favor of the former would proportionably injure the latter, as the tendency of the system is to benefit all nations, not embraced in the Resolutions; and thus would excite Spain to measures of hostility.

It is said, if Great Britain is inclined to war, her manufacturers and merchants will deter her from such a step through fear of these Restrictions. But, by adopting a system, which the friends of it declare is to operate against those classes of people;—is it not apparent, that we shall destroy that check, and render war a popular measure? These Commercial Regulations are robbed of the object on which they are proposed to operate.—They cannot be seriously intended to repel aggressions. They are only a show of resentment without operation. This is not the time for feeble measures. Our commerce, our very existence as an independent nation, is threatened.—The present war is a war of political principles. We must secure ourselves against attack, and avoid all connection, as far as possible, with European politics.

The debate increased in warmth as it proceeded. After indicating the injurious effects which Madison's resolutions would produce on the exports of the country, and their particular pressure on the middling classes of society—"Let us," observed Ames, "urge peace to the last extremity; and, if War threaten, strain every sinew to prepare for it.—The Resolutions say nothing.—They say worse than nothing.—They are built on partiality for one nation.—They have *French* stamped on the very face of them.—If we feel that the English have injured us, let us place the country in a state of defence. The Resolutions can do nothing towards this object.—It is

folly to think of regulating a commerce—that first calls for protection, and to encourage the increase of navigation, when the shipping we have is in jeopardy." *

"More energetic measures," said Vans Murray, "are necessary.

"Let all intercourse with Great Britain be stopped until she gives us satisfaction for the injuries we have suffered. This would be exhibiting a temporary enmity for a temporary evil, but the adoption of these Resolutions would evince an eternal enmity, and at the same time want the energy which the urgency of the case requires."

The existence of French influence was warmly denied. —"A member," said Parker of Virginia,—"a member from Massachusetts conceived the Resolutions bore the stamp of French on the very face of them. He wished that everybody and every thing could be plainly read by some such device.—We should see what and who is French, and who is English. He should not, he hoped, let prejudice get the better of his reason, but thought that he could never forget, that probably without France, this Legislature would not be deliberating within these walls."

During the course of this debate, a vote was again taken on a proposition to lay an embargo for thirty days, and it was defeated by a majority of two members.

* John G. Jefferson—brother of Thomas Jefferson, writes—"Amelia, March 22, 1794. Mr. Madison's resolutions have rendered him, in this part of the country, more popular than any measure he could have taken. I believe the people in this and the adjoining counties might be easily reconciled to a War with Great Britain; and, so great is their sympathy for the French, that I have heard some of the leading characters declare, that, *even, if there was a rupture between France and their own country, that they would refuse to bear arms.* The choice of Edmund Randolph as Secretary of State is the most unpopular one the President could have made. It is hard to conceive how much he is despised."

The discussion of Madison's resolutions was then resumed; but, notwithstanding the perseverance of their advocates, it gave place to measures more appropriate to the situation of the country.

These were the Resolutions offered by Sedgewick for the formation of an auxiliary corps of troops.

The first, which was a test, was lost without debate.—He then proposed another, the object of which was to ascertain the sense of the House, "whether any extra provision for the protection of the Country was deemed necessary."—The opposition were alarmed; and, after some debate, a Resolution was adopted; "that measures ought to be taken to render the force of the United States more efficient."—The detail of those measures was referred to a Committee of nine members.—Sedgewick was appointed Chairman; to whom was committed a proposition for the enrolment of a select corps of Militia to be called together for purposes of instruction by each State; and, in case of invasion or insurrection, to be employed in actual service by the President, for a term not to exceed one year.

The other proposition offered by that member was at last adopted, a Resolution being passed, authorizing an embargo for thirty days, prompted chiefly by the British captures in the West Indies.

It was concurred in by the Senate, and immediately approved by the President.

CHAPTER CIII.

While the preparations for defence, suggested by Hamilton, were under the consideration of the Committee of nine, intelligence was received in the United States which left little doubt that Great Britain meditated War.

To more detailed information of the aggressions upon the American commerce were added, the particulars of an interview on the tenth of February between the Governor General of Canada and a delegation of Indians, who had assembled at the great Council of the Miamies, in the preceding year.

He was represented to have said on this occasion—"Children, since my return, I find no appearance of a Line remains; and from the manner in which the people of the States push on, and act, and talk on this side; and from what I learn of their conduct towards the sea, I shall not be surprised if we are at war with them in the course of the present year; and, if so, a Line must then be drawn by the warriors."

The effect of such a proceeding can be easily conceived.—Under the excitement produced by it, after notice by Madison of his intention to call up his Resolutions, a proposition was offered by Smith of South Carolina, (whose opposition to those Resolutions kindled so much irritation in that State that he was burned in effigy,) that

provision ought to be made for the indemnification of the citizens of the United States for their property confiscated by any of the belligerent powers, contrary to the law of nations.

This motion was urged by him on the ground, that the people were entitled to protection;—that the Government was bound to obtain reparation;—and that, in the first instance, the claims should be paid out of the Treasury.—He added, that the indemnifying proposition of Madison was inapplicable to the present crisis, resting solely on a fund which probably never would exist, and dependent on others which might not be resorted to.

This proposal was followed by another on the part of Colonel Dayton,—having for its object the sequestration of all debts due to British subjects, to be held as a pledge for the restitution of the American property which England had illegally confiscated.—The express ground of this procedure was the recent speech of Sir Guy Carleton,—then Lord Dorchester, which was subsequently ascertained to be spurious.

An immediate consideration of these Resolutions was urged, though with different objects. By some of the members who were opposed to the principle of them, on the ground, that on such a question, no suspense ought to exist,—that they should be immediately considered and rejected.

Ames contended, that war ought not to be precipitated. "He still cherished the hope of peace.—He would, to the last moment, struggle against every thing like war, he therefore reprobated every proposition which had a tendency to drive us into a war, until all negotiation had failed." Delay was also urged by Tracy, who declared, "that he did not say what change the debate might produce upon his opinion, but, at present, the proposition ap-

peared to him an outrage upon common honesty." Smilie insisted, that we were in a state of war, and that the measure was necessary for self-defence.

After some discussion, it was resolved to go immediately into Committee.

The defence of this measure rested on the acts of the Government of Great Britain, as a necessary means of reimbursement. The right, under the circumstances, to sequestrate was deduced from the laws of Nations. This would be the most efficient prelude to a successful negotiation.

Rarely was Hamilton's personal influence more actively exerted than at this moment.—He immediately held conferences with those Federalists who had espoused this intemperate policy, indicated all its consequences, and expatiated on the dishonor which, if adopted, would attach to the American character.—His exhortations were felt, and ultimately prevailed.

While the general right of reprisal was admitted by his friends, it was contended, that the law of Nations forbade reprisals upon property intrusted to public faith; and that such were the debts due to British subjects.—There was a sacredness belonging to the character of debts, which shielded them from such a procedure, and which superseded every other consideration. Although the ancient writers on National law sanctioned the measure, later jurists pronounced it against the modern usage and practice of nations. The progress of civilization, the improved state of commerce and respect for credit and public faith had abolished it.

No instance during a century could be adduced in its favor.—This immunity, it was said, had been sanctioned by South Carolina during the whole of the Revolution.—

The measure was deprecated by Smith (of Connecticut) as threatening the credit of the Country,—as a most alarming precedent—amounting to a declaration of war. —Circumstances which had recently occurred were adduced to show, indefensible as these captures were,—that still there was room to suppose Great Britain did not meditate war. While, therefore, her conduct admitted of explanation,—no measures of precipitation ought to be taken. The recent successes of France might incline Great Britain to moderation.—With such a prospect, it was ardently wished, that a procedure, repugnant to common honesty and common justice, might be rejected. If adopted, it would fix an indelible stigma on the national character.

In reply, it was asserted, that the measure was fully sanctioned by the laws of morality and of nations.—The conduct of the United States and of Great Britain was reviewed. The impartial neutrality of the former, while the situation of France invited our aids, and addressed itself to our affections, was contrasted with that of Britain; —violating our Neutrality—withholding our posts—"and opening upon us in the East a barbarous enemy."

"We have been injured," exclaimed Giles,—"Reprisal is within our power.—All other redress is without it. —In such a State of things—*Reprisal* is a *right*, *Reprisal* is a *duty*. It had been objected, that it fell on individuals—but as the Nation is the immediate agent in the wrong, the individual who suffers, is entitled to be recompensed by his Nation. Is it a question, if it is ultimately borne by individuals, whether our own citizens should be protected, or *British subjects?* The measure was justified by self-preservation—the first of all rights—the highest of all duties.

"The United States have suffered substantial wrongs which require a substantial remedy. It is asked, why discriminate against Great Britain?

"Hurt as he was, that the conduct of France was so unnecessarily and inopportunely arraigned—there was one conclusive answer.—The United States owe to France a pecuniary obligation, as well as one of a more sacred nature. This is, at all times, sufficient for their indemnification.

"The question," he declared, "was come to this,—whether, in demanding an explanation and attempting negotiations, we shall use all the means in our power to compel a favorable issue;—or whether we should tamely supplicate for justice, and suffer the most effectual means of compulsion to elude our grasp?

"There was another strong consideration in favor of the measure.—The sufferers are asking for indemnity.—Their claims will gain additional weight unless this fund should be offered them for it.—It is the obvious, the rightful, the natural fund. The most pacific system had marked the character of the Government.—It has not produced peace.—A regard for peace had been construed into a fear of war.—A resistance of the feelings of the people for the cause of France has been palatable food for British arrogance, and presumption. Submission to aggression has invited new aggressions. Appeals for justice have been deemed testimonies of debility; till, at length, the United States, after having been stripped of their citizens and property, are upon the eve of a war, because they have not exerted their rights at an earlier period.—If this conduct had been heretofore wise and pacific, experience has taught us that it is no longer so.—Nothing can be expected from the justice, the honor, or the

moderation of a court, which has proved itself, equally a stranger to them all. But before such a tribunal, acquiescence will beget injuries, injuries will beget insults, and insults will beget contempt, degradation and War."

Notwithstanding the excitement of the House, this intemperate proposition was postponed; and the Report of the Committee for augmenting the military force was acted upon.

This Report proposed the filling up of the existing regiments—an additional corps of artillery to garrison the fortifications—the organization of detachments of militia, to the number of eighty thousand; and of a military force to be raised under the authority of the United States to serve for a limited period, or during a War, if one should break out with any European power; but no such measures were to be taken by the Executive, *until war had actually commenced.*

The three first resolutions were adopted after some discussion. But they were charged to be in direct violation of the Constitution, which vested exclusively in Congress the power of declaring war; while they proposed to delegate that power to the President, to be exercised during the recess of the Legislature. They also proposed to authorize the Executive, at its pleasure, to raise an army; and thus to create offices and appoint Officers, while the Constitution vested those powers expressly and exclusively in the Legislature. A "delegation of such powers," it was alleged, "would have struck not only at the fabric of the Constitution, but at the foundation of all well organized and well checked governments.

"The separation of the power of declaring War from that of conducting it, was wisely contrived to exclude the danger of its being declared, for the sake of its being con-

ducted.—The separation of the power of raising armies from the power of commanding them was intended to prevent the raising armies for the purpose of commanding them.

"The separation of the power of creating offices from that of filling them was an essential guard against the temptation to create offices, for the sake of gratifying favorites or multiplying dependents. Where would be the difference between blending these incompatible powers, by surrendering the legislative parts of them into the hands of the Executive, or the Executive parts into the hands of the Legislative?

"In either case, the principle would be equally destroyed, and the consequences equally dangerous.—Should this be defended by appealing to the virtues of the present Chief Magistrate—this is a question belonging to the functions of his office.—In deciding the latter, the people will consult the Constitution. They will consider human nature; and looking beyond the character of the existing Magistrate, fix their eyes on the precedent which must descend to his successors."

If these objections are admitted, they apply with equal force to every other power granted by the Constitution to Congress, and induce the extraordinary result, that Congress cannot delegate any of their powers to the Executive, nor confer upon him any provisional authority.

Either the legislature must remain in constant session during periods of difficulty, or the Country must be left defenceless.

While the uncertainty of preserving peace demanded measures of energy, Hamilton made every effort to dissuade those of his friends, who had yielded to the impulses of their feelings, from any precipitate step.

In the wisdom of the policy, which he had adopted as

a principle, that every effort of negotiation should be exhausted before an appeal to arms, he was sustained by the arrival of despatches from the Embassy at London, announcing, that the offensive order of November had been revoked, and that instructions had been given on the eighth of January which would leave unmolested the trade between the United States and the French West Indies,—submitting only to legal adjudication such Vessels as were laden with goods, the produce of the French Islands, on a direct voyage from those islands to Europe. This exception was, upon the ground that this trade, being prohibited by France, during peace, was illicit during war.

Notwithstanding an Embargo had been laid, a part of the opposition seemed bent on measures which would inevitably result in hostilities.

On the second of April, two days before this despatch was communicated to Congress by the President, a resolution of Clarke was seconded by Findley,—that, until restitution should be made for all losses and damages sustained by the citizens of the United States from her armed Vessels or from any persons acting under her authority, in violation of their neutrality, and until the Posts were surrendered, all future commercial intercourse with Great Britain, as to articles of her growth or manufacture, should be prohibited.

Such was Jefferson's view. From the time of his leaving the Cabinet, he observed, except towards his most confidential friends, a careful silence; affecting a love of repose,—a disinclination to politics. Yet he could not for a moment, suppress his rancor towards Hamilton, the prevalence of whose policy had driven him from office.—"I think," he wrote to Randolph a month after his resig-

nation,* thanking him for the transmission of letters from Gates, La Motte, and Hauterive (the two latter, Consuls from France), "it is Montague, who has said, that ignorance is the softest pillow on which a man can rest his head. I am sure, it is true as to every thing political, and shall endeavor to estrange myself from every thing of that character. I indulge myself on one political topic only, that is, in declaring to my countrymen the shameless corruption of a portion of the Representatives in the first and second Congresses, and their implicit devotion to the Treasury."—The propagation of this calumny, which rests upon nothing but his assertions, he defends as a mean of reforming "an evil, on the success of which the form of the Government is to depend." On the same day he wrote to Gates. * * * "The length of my tether is now fixed for life, from Monticello to Richmond. My private business can never call me elsewhere, and certainly politics will not, which I have ever hated, both in theory and practice. * * * Calm is now restored, and I leave the bark with joy to those who love the sea." This estrangement from politics did not continue.—He is, ere long, seen, again denouncing Hamilton. Alluding to the speech of Smith on the Commercial resolutions, he writes to Madison—"Every letter of it is Hamilton's except the introduction. There is scarcely any thing there which I have not heard from him in our various private, though official discussions. The very turn of the arguments is the same, as that in the Cabinet discussions. The sophistry is too fine, too ingenious, even to have been comprehended by Smith, much less devised by him."† His disappointment he could not conceal and soon after he avowed his "regret that his retirement had been postponed four years too long."

* Feb. 3, 1794.

† April 8, 1794.

When the failure of his report on Commerce was indicated, his temper rose. He rejoiced at the day when he should see "Kings, Nobles and Priests" brought "to the scaffolds which they have been so long deluging with human blood. I am still warm," he writes, "whenever I think of these scoundrels, though I do it as seldom as I can, preferring infinitely to contemplate the tranquil growth of my lucerne and potatoes." Then alluding to the proposition of Clarke, after intelligence was public of the revocation of her obnoxious orders by Great Britain, he wrote—"I love peace, and I am anxious that we should give the world still another useful lesson, by showing to them other modes of punishing injuries than by war, which is as much a punishment to the punisher as to the sufferer. I love, therefore, Mr. Clarke's proposition of cutting off all communication with the nation which has conducted itself so atrociously. This, you may say, will bring on War. If it does, we will meet it like men; but it may not bring on war, and then the experiment will have been a happy one. I believe this war would be vastly more unanimously approved than any one we ever engaged in; because the aggressions have been so wanton and bare-faced, and so unquestionably against our desire."*

More temperate and prudent counsels governed.

The resolution of Clarke was laid on the table for consideration; and, on the fourth of April, before the House was called upon to act upon it, the recent despatches from England were communicated formally by the President.

They embraced, beside the order of revocation, a statement of a conversation between Pinckney and Lord

* Jefferson to Tench Coxe—Jefferson's Works, iii. 304.

Grenville, in which the motives to this order were represented as temporary—having in view the prevention of abuses apprehended from the resort of the St. Domingo fleet to the United States, and to aid a contemplated attack upon the French Islands by a British armament.—A construction of that order was also given, which limited it, so as to authorize detention for adjudication, not condemnation; and, an intimation was added, that no condemnations would be made under it of Vessels not previously liable to be condemned.

It was Hamilton's plan, that preparations for National defence should be taken in the first instance, to be followed without delay, by a SPECIAL MISSION to Great Britain. To carry this Mission into effect, the concurrence of the Senate was necessary; and immediately after he had advised the President to give an Executive impulse to efficient provisions for hostilities, he communicated his views to Cabot.

On the tenth of March, the day on which Sedgewick gave notice of his intended resolutions to increase the armed force, a conference was held between the Senators, Cabot, Ellsworth, King and Strong. From minutes of this conference, it appears, that the proposed mission was approved; and, that it was determined, that Ellsworth should confer with the President on the necessity of this measure, and as to the person proper to be appointed;—that he should impress upon him the necessity of selecting an individual, suited both from his talents and confidence in the sincerity of his desire to preserve peace, to the greatness of the emergency; and should state, that Hamilton was the person from whom, in every point of view, a successful issue to this effort was most to be expected.*

* "The English," Ames wrote, "are absolutely madmen. Order in this Country is endangered by their hostility; no less than by French friendship.

In the conference with Ellsworth, the President, though he at first evinced his habitual reserve, yielded to the force of the suggestions made to him; but while he avowed his preference of Hamilton, intimated doubts arising from the prejudices which had been excited against him.

The same idea was repeated to Goodhue.—"You know," said Washington, "whom I wish,—but for the clamor they have raised against him."

The particulars of Ellsworth's interview being disclosed to Hamilton, he instantly urged upon his friends, that *he* should be kept out of view, for the reason, that while he was regarded as a candidate, he would, from personal delicacy, be unable to exert his influence with the President. They were disinclined to yield to this consideration.—After some interval, the President, hesitating much as to the course he should take, consulted Robert Morris, who sustained the advice of Ellsworth, and urged the great importance of Hamilton's being appointed.—It appeared from this interview, that the persons in the contemplation of the President were Hamilton, Adams, Jay or Jefferson.

Pressed, as he was, by the opposition, Washington had consulted Randolph as to the Mission and the selection of Hamilton.

Randolph dissuaded both, and advised him to send to England "some temperate and sensible man, without a *particle of the diplomatic character*, who, under the partic-

They act in almost every point against their interest, and their real wishes. I hope and believe such extreme absurdity of conduct will be exposed with success.—Should a special Minister be sent from this Country, much will depend on his character and address. Who, but Hamilton would perfectly satisfy all our wishes? * * He is *ipse agmen*." "If John Bull is a blockhead, and puts himself on his pride to maintain what he has done, and should refuse reparation, it will, I think, be War."

ular instructions of Pinckney, might manage the discussion of the respective claims."

Hamilton's object in the special mission, combined with Military preparations, was to assume towards Great Britain a determined attitude, and to prevent a War, either by provisional or definitive arrangements of the subjects of difference;—if this result could not be attained, that Washington should stand before the world and the Nation, justified in an appeal to arms.

The advice of Randolph, if approved, would have frustrated this great purpose;—would have produced a protracted negotiation;—a state of half peace and half War—ending in War; and would certainly prevent the appointment of Hamilton, as no man of commanding character and talent could have accepted so subordinate a trust.

Jay arrived at this moment at Philadelphia to open the Supreme Court. An interview was held with him, in which he was informed of the state of the President's mind.—He was told, that, while from his official information and commercial knowledge, Hamilton would be preferred by the friends of peace, yet that his being appointed would give them entire satisfaction.—It was added, that Hamilton's continuance in the Cabinet was essential Jay approved the contemplated Mission, concurred in the superior fitness of Hamilton, was silent as to himself, but declared his purpose to inform the President, that the object of the measures pushed in Congress was to frustrate a negotiation.

This conversation was related to Cabot, Ellsworth, and Strong, who, aware of the President's confidence in Hamilton,* were still unwilling that the appointment

* Cabot related, as evidence of this confidence—a recent conversation between the President, Taylor of Virginia, and himself. Speaking of Hamil-

should be conferred on any other person. Their feelings were disclosed to Hamilton, when he again stated, that all personal ought to be yielded to public considerations; and imparted to them the fact that every effort had been made, through Randolph the Secretary of State, to prevent his being nominated.—That, in a conversation with him on the subject of this embassy, Randolph, in reply, to an intimation as to his previous views, casually said—"at that time I had not conversed with Fauchette" (the new Minister from France)—that, after further conversation, he brought the Secretary of State back, reminding him he had said, "at that time he had not conversed with Mr. Fauchette;"—and then asked him, whether the inclination of the President to appoint Hamilton was seen by Randolph, and was disclosed to the leaders of the opposition.

"Did I not actually *incur your displeasure*," Randolph subsequently wrote to the President, "by *objecting* to the appointment of Colonel Hamilton, as envoy to London."

Never was the personal rivalry or political hostility toward the Secretary of the Treasury more active than at this time.

A final and peaceful adjustment with Great Britain combined with a Commercial treaty, was a result of all others that to which they were most adverse.—That it would disappoint their hopes of power, they justly feared; that it would refute their assertions that Great Britain was disinclined to peace, they well knew; and that it would confer on Hamilton additional glory, was a consequence, of all others, they most deprecated.

The inquiry he had invited as to his fiscal conduct was

ton—Taylor, a violent partisan of Jefferson said,—"That is a great man."—"An abler and an honester man," Washington replied, "they cannot find."

then in progress. The doors of the Treasury were thrown open; and every facility of investigation was offered,—offered with a confidence, that bespoke the issue. The nomination of him at such a moment would have been a new evidence of Washington's confidence, and would have cast increased odium on his persecutors. Randolph then took a new position, and on the sixth of April, advised him to send a message to Congress, urging them to adopt measures preparatory to War; and to postpone the nomination of an Envoy until the extent of the preparations was ascertained. If the nomination were immediate, he suggested that, from their imbecile condition, the Mission would be unsuccessful.—Two advantages would result from postponing the nomination.—After nerve had been given to our affairs, the propriety of the Mission would be no longer questionable; and the person nominated could then choose whether he would be the Missionary after such acts of Congress.

The object of this advice was more apparent than that previously given by him.—It would give time to the majority in the House of Representatives to take some measure of so decisive a character as to cut off all prospect of a successful negotiation, perhaps to prevent its being instituted.

On the same day, he was reinforced in his opposition by a letter from a person of much political influence in Virginia—a devoted friend of Jefferson, then a member of the House of Representatives.—This person* wrote to the President, denouncing the proposed mission, both on public and private grounds—asserting "the risk to which he would expose his own popularity, and urging with all the ardor of party zeal the objections to the Secretary of the Treasury as an envoy."

* John Nicholas. Washington's Writings—X. Appendix, 557.

This letter was followed by another, two days after. It was from James Monroe, declaring his hostility to Hamilton's being appointed, as "a measure not only injurious to the Public interest, but also especially so to his own," (the President's); and offering in a *personal* interview, "to explain more at large" his "reasons for this opinion." *

Washington consulted Randolph as to the propriety of this interview.—His reply is characteristic. He denied, that which had not been charged—that he had obtained these letters to convey sentiments he was unwilling to deliver to him in person. He affirmed, that the writer of the first letter was not inferior to any man in the United States in attachment to the President; and then, in reference to Monroe's overture, after an affected discussion of the propriety of such an interview with a Senator, remarked, in case it was granted, "that *facts* were the principal things to be consulted, and that, upon this idea, an interview should be afforded."

The President disregarded this advice, and, with his accustomed prudence, forthwith requested Monroe,† "if he was possessed of any facts or information, which would disqualify Colonel Hamilton from the mission, that he would be so obliging as to commit them to him IN WRITING." He pledged himself that they should "meet the most deliberate, impartial and candid consideration." Three differing drafts of a letter were prepared by Monroe, but no communication is known to have been made by him. Nor was Jefferson less averse to this mission. "I learn," he writes Monroe, "by your letters and Mr. Madison's, that a special mission to England is medi-

* Washington's Writings—X. Appendix, 557. Ibid., 558.

† Ibid., X. 399.

tated,—and Hamilton the Missionary.—A more degrading measure could not have been proposed, and why is Pinckney to be recalled? For it is impossible that he should remain there after such a testimony, that he is not confided in. I suppose they think him not thorough-paced enough. I suspect, too, the mission, besides the object of placing the aristocracy of this Country under the patronage of that government, has in view that of withdrawing him from the disgrace and public execration which sooner or later must fall on the man, who, partly by creating fictitious debt—partly, by volunteering in the payment of the debts of others, who could have paid them so much more conveniently themselves, has alienated *for ever* all our ordinary heavy resources, and will oblige us hereafter to extraordinary ones, for every little contingency out of the common line; and who has lately brought the President forward with manifestations, that the business of the Treasury has got beyond the limits of his comprehension."*

* Jefferson to Monroe, Ap. 24, 1794.

CHAPTER CIV.

Conclusive as the recent despatches from London were to prove the propriety of further negotiation, the opposition determined to push their measures, lest the public excitement should subside, and thus to frustrate the mission. With these views, the Resolution for a non-intercourse with Great Britain was brought forward the day after the date of Randolph's letter to the President. Nothing in the history of the legislation of this Country had equalled the violence with which the adoption of this resolution was pressed. Its advocates declared, that whatever doubts may have heretofore existed of the hostile temper of Great Britain toward the United States, her recent conduct was sufficient to awaken the resentment of the tamest breast. It was no longer a question, whether the United States should submit to the unprovoked injuries and insults they had suffered; but whether they would permit the only means in their power of obtaining indemnification to elude their grasp. The effect of her measures was so injurious as to warrant retaliation. She had no claims to lenity. The idea of refraining from retaliation for fear of irritating a nation which has injured and degraded the Country without provocation is indeed debasing. War is to be deprecated—yet if Great Britain was at war with the United States she could not injure

them more than she had done of late. We have nothing to expect from her justice. Her insolence is founded on an idea of our pusillanimity, and rejecting the measure, will confirm that idea. Negotiation is relied on as the road to restitution. We have negotiated in vain. Why should an Extraordinary Minister be more successful than our present Resident? If every additional insult creates an additional obligation to negotiate, Britain has only to pursue the line of injury she has adopted, to baffle all our attempts to do ourselves justice. It is said, we should now negotiate, and if we do not succeed, then this measure may be adopted. But before that can be done, Great Britain may be possessed of our whole strength—by continuing to capture our merchantmen; and then we shall in vain attempt to resist.

Yet, while every thing indicated their appetite for controversy, the opposition declared, that the proposed non-intercourse had no such tendency; that it was calculated to secure peace—to bring Great Britain to her senses, and to obtain satisfaction for the injuries she had inflicted on the United States.

The friends of Hamilton viewed this as a question involving the dearest interests of their country, threatening to exchange its unexampled prosperity for all the evils of war.

That injuries unprovoked and inexcusable had been inflicted by Great Britain was acknowledged, "No man felt stronger indignation than himself," Sedgewick declared, "at the insults offered to the country. No man was less disposed tamely to bear the haughty and unprovoked aggressions of any foreign nation. No man would go further to procure redress. If, after seeking reparation in the way dictated by prudence and humanity, happily prescribed by the modern usages of civilized nations,

and commanded by the principles of Religion; if, fair negotiation should be tried and justice not obtained, he would then seek redress by the means God and nature had given us. All admitted that a demand of redress should precede hostilities. The difference was as to the manner, and the circumstances under which it should be made.

"Gentlemen had disclaimed an intention to adopt measures tending to war. They said this measure had no such tendency. This assertion he could not believe, because this measure contained a threat of inconvenience. Every threat was a cause of irritation; and every irritation tended to widen the breach, and of course to produce War. If Great Britain was proud, haughty and insolent, as she had been described, would she be more inclined to do justice by enlisting her pride and insolence against us?

"To seize on British property, to confiscate or sequester British debts, to annihilate, as far as in our power, her commerce; to starve her manufactures and to humble her pride—these were infallible means of defeating negotiation, and of uniting, as one man, that nation against us, in all the views of her administration.

"But, there were also constitutional difficulties in the way. The people had by the Constitution declared the President, under certain modifications, the organ to treat exclusively with foreign powers. This authority, thus exclusively delegated, includes all the terms on which a treaty could be formed. What was the present measure? Prescribing the terms of treaty, and restraining the constitutional power from treating on any other terms. Two answers had been given. One,* that the Legislature

* By Smilie.

could make such a law because the Executive could repeal it. How disgusting would such an assertion be to the American people. The Executive repeal a constitutional act of the Legislature! The other answer * was, 'that there could be no objection to the exercise of this power, if it should be assented to by the President and Senate.' This was more extraordinary and unsatisfactory than the other. It implied, that the President and Senate could make grants of power to this House, not contained in the Constitution. There was to this one reply. All the powers of that House were expressed in the instrument creating it. They could neither be enlarged nor abridged, but in the mode indicated by that instrument." After a similar train of remark, a view was taken by Smith (of Connecticut) of the posture of affairs with Great Britain. No complaint had yet been made to her of the recent injuries. When our Minister demanded an explanation of the order of the sixth of November last, her Court declared, that no condemnations were to take place in virtue of it, which would not have been legal before the order was issued—a construction was given to it by them which denied the principles on which the condemnations had been founded; and disavowed the transactions of which we complain. Thus we may fairly suppose her Courts of Admiralty have contradicted the intentions of the Ministry; and that they are bound by their own construction, to make the satisfaction we demand.

He then adverted to the terms of the Resolution by which the surrender of the Posts and payment for negroes (the latter of which had been inserted in the original Resolution) were connected with the recent spoliations,

* By Nicholas.

Great Britain had charged the United States with being the first infractors of the treaty. The United States had retorted the charge. While they seriously believed the first violation had been by us—what would they say to an act which renounced all connection with them, unless they fulfilled a treaty they considered themselves discharged from, by our first violation? Could it be expected, they would comply with terms so haughty and so insolent? Would they submit to conditions so humiliating and degrading? If this Resolution be adopted, we cannot recede in honor, unless there be a compliance with every article. If we treat without any antecedent law, we may make any concession that our interest requires, and is compatible with our honor.

This Resolution had been advocated as the stepping-stone to sequestration. If that be true, he should step on this stone with horror and indignation—he should consider it to be the stepping-stone to the temple of infamy, wretchedness and ruin. It would not only involve this Country in disgrace, but in all the calamities of a War. He called on its supporters to unfold their whole system, and not deceive the people into measures, which they would reprobate, if they knew their consequences. He believed, while there were some who had nothing but peace in view, there were many who intended to defeat a negotiation; to dissolve our commercial connection with Great Britain for ever; and who were willing to plunge us into a War. He was convinced, that such would be the consequences of this measure; but, if a fair negotiation should be attempted, he had no doubt, that all controversies might be settled, ample satisfaction obtained, commerce restored, and that our Country would continue to flourish and to prosper.

The considerations which had influenced Hamilton to

advise the appointment of Jay were strengthened by information, that the mission had been proposed by Randolph to Madison; that the appointment of Jefferson was desired by the Democratic party; and that great efforts had been made to induce the Senators from Georgia, in a certain contingency, to defeat a nomination.

The necessity of Hamilton's being at liberty to offer his advice to the President thus became the more apparent; and yielding to this consideration—"I, at last"—Cabot relates, "declared we must let the little Lion loose."

Released from the urgency of his friends, Hamilton now brought his influence to bear; and on the fourteenth of April addressed the President a letter, from which a highly interesting view is obtained of the interior situation of the country at that great crisis of its fortunes:

"The present is, beyond question, a great, a difficult, and a perilous crisis in the affairs of this country. In such a crisis it is the duty of every man, according to situation, to contribute all in his power towards preventing evil and producing good. This consideration will, I trust, be a sufficient apology for the liberty I am about to take, of submitting, without an official call, the ideas which occupy my mind concerning the actual posture of our public affairs. It cannot but be of great importance that the chief magistrate should be informed of the real state of things; and it is not easy for him to have this information but through those principal officers who have most frequent access to him. Hence an obligation on their part to communicate information on occasions like the present.

"A course of accurate observation has impressed on my mind a full conviction, that there exists in our councils three considerable parties; one, decided for preserving peace by every effort which shall any way consist with the ultimate maintenance of the national honor and rights, and disposed to cultivate with all nations a friendly understanding: another, decided for war, and resolved to bring it about by every expedient which shall not too directly violate the public opinion: a third, not absolutely desirous of war, but solicitous, at all events, to excite and keep alive irritation and ill humor between the United States and Great Britain, not unwilling, in the pursuit of this object, to expose the peace of the country to imminent hazards.

"The views of the first party in respect to the questions between Great Britain and us favor the following course of conduct. To take effectual measures of military preparation, creating, in earnest, force and revenue; to vest the President with important powers respecting navigation and commerce for ulterior contingencies; to endeavor, by another effort of negotiation confided to hands able to manage it and friendly to the object, to obtain reparation for all the wrongs we suffer and a demarkation of a line of conduct to govern in future; to avoid, till the issue of that experiment, all measures of a nature to occasion a conflict between the motives which might dispose the British Government to do us the justice to which we are entitled, and the sense of its own dignity. If that experiment fails, then and not till then to resort to reprisals and war.

"The views of the second party in respect to the same questions favor the following course of conduct, to say and to do every thing which can have a tendency to stir up the passions of the people, and beget a disposition favorable to war; to make use of the inflammation which is excited in the community for the purposes of carrying through measures calculated to disgust Great Britain, and to render an accommodation impracticable without humiliation to her, which they do not believe will be submitted to; in fine to provoke and bring on war by indirect means, without declaring it or even avowing the intention: because they know the public mind is not yet prepared for such an extremity, and they fear to encounter the direct responsibility of being the authors of a war.

"The views of the third party lead them to favor the measures of the second, but without a perfect coincidence in the result. They weakly hope, that they may hector and vapor with success—that the pride of Great Britain will yield to her interest, and that they may accomplish the object of perpetuating animosity between the two countries, without involving war.*

"It may seem difficult to admit in the situation of this country that there are parties of the description of the two last; men who can either systematically meditate war, or can be willing to risk it otherwise than by the use of means which they deem necessary to insure reparations for the injuries we experience.

"But a due attention to the course of the human passions, as recorded in history and exemplified by daily occurrences, is sufficient to obviate all difficulty on this head.

* There are some characters not numerous who do not belong to either of these classes—but who fluctuate between them, as in the conflict between Reason and Passion, the one or the other prevails.

"Wars oftener proceed from angry and perverse passions, than from cool calculations of interest. This position is admitted without difficulty, when we are judging of the hostile appearances in the measures of Great Britain towards this country.—What reason can there be, why it should not be as good a test of similar appearances on our part. As men, it is equally applicable to us, and the symptoms are strong of our being readily enough worked up into a degree of rage and frenzy which goes very far towards silencing the voice of reason and interest.

"Those who compose the parties whose measures have a war aspect, are under the influence of some of the strongest passions that can actuate human conduct. They unite from habitual feeling in an implacable hatred to Great Britain, and in a warm attachment to France. Their animosity against the former is inflamed by the most violent resentment for recent and unprovoked injuries, in many instances by personal loss and suffering, or the loss and suffering of intimate friends and connections. Their sympathy with the latter is increased by the idea of her being engaged in defending the cause of liberty against a combination of despots who meditate nothing less than the destruction of it, throughout the world. In hostility with Britain, they seek the gratification of revenge upon a detested enemy with that of serving a favorite friend; and in this, the cause of Liberty. They anticipate also what is in their estimation a great political good—a more complete and permanent alienation from Great Britain; and a more close approximation to France. Those even of them, who do not wish the extremity of war, consider it as a less evil than a thorough and sincere accommodation with Great Britain; and are willing to risk the former rather than lose an opportunity so favorable as the present to extend and rivet the springs of ill will against that Nation.

"However necessary it is to veil this policy in public—in private, there are not much pains taken to disguise it. Some Gentlemen do not scruple to say that pacification is and ought to be out of the question.

"What has been heretofore said relates only to persons in public character. If we extend our view from these to the community at large, we shall there also find a considerable diversity of opinion—partisans of patience, negotiation and peace, if possible, and partisans of war. There is no doubt much of irritation now afloat; many advocates for measures tending to produce war. But it would be a great mistake to infer from these appearances, that the prevailing sentiment of the Country is for war, or that there would be either a willing acquiescence or a zealous co-operation in it, if the proceedings of the Government should not be such as to render it manifest beyond ques-

tion that war was inevitable, but by an absolute sacrifice of the rights and interests of the nation, that the race of prudence was completely run, and that nothing was done to invite hostility, or left undone to avoid it.

"It is to my mind unequivocal, that the great mass of opinion in the Eastern States and in the State of New York is against war, if it can be avoided without absolute dishonor or the ultimate sacrifice of essential rights and interests; and, I verily believe that the same sentiment is the radical one throughout the United States, *some* of the towns perhaps excepted, where even it is much to be doubted, whether there would not be a minority for the affirmative of the naked question of war, or of measures which should be acknowledged to have a tendency to promote or produce it.

"The natural inference from such a state of the public mind is, that if measures are adopted with the disapprobation and dissent of a large and enlightened minority of Congress, which, in the event, should appear to have been obstacles to a peaceable adjustment of our differences with Great Britain, there would be, under the pressure of the evils produced by them, a deep and extensive dissatisfaction with the conduct of the Government; a loss of confidence in it, and an impatience under the measures which war would render unavoidable.

"Prosperous as is truly the situation of this country, great as would be the evils of war to it, it would hardly seem to admit of a doubt, that no chance for preserving peace ought to be left or diminished, in compliance either with resentment or the speculative ideas which are the arguments for a hostile course of conduct.

"At no moment were the indications of a plan on the part of Great Britain to go to war with us sufficiently decisive to preclude the hope of averting it by a negotiation, conducted with prudent energy and seconded by such military preparations as should be demonstrative of a resolution eventually to vindicate our rights. The revocation of the instructions of the 6th of November, even with the relaxation of some pretensions which Great Britain has in former wars maintained against Neutral Powers, is full evidence, that, if the system was before for war, it was then changed. The events which have taken place in Europe are of a nature to render it probable that such a system will not be revived; and that by prudent management we may still escape a calamity which we have the strongest motives, internal as well as external, to shun.

"I express myself thus, because it is certainly not an idle apprehension, that the example of France (whose excesses are with too many an object of apology, if not of justification,) may be found to have unhinged the orderly principles of the people of this country;

and that war, by putting in motion all the turbulent passions and promoting a further assimilation of our principles with those of France, may prove to be the threshold of disorganization and anarchy.

"The late successes of France have produced in this country conclusions much too sanguine with regard to the event of the contest. They, no doubt, afford a high probability of her being able eventually to defend herself, especially under a form of administration of such unexampled vigor as that by which she has of late managed her affairs.

"But there will be nothing wonderful in a total reverse of fortune, during the ensuing campaign. Human nature must be an absolutely different thing in France from what it has hitherto shown itself to be throughout the globe and in all ages, if there do not exist in a large proportion of the French nation, germs of the profoundest discontent, ready to burst into vegetation the moment there should appear an efficacious prospect of protection and shade from the progress of the invading armies. And, if having possessed themselves of some of the keys of France, the principle of the commencing campaign should be different from that of the past; active field operations succeeding to the wasteful and dilatory process of sieges,—who can say, that victory may not so far crown the enterprises of the coalesced powers as to open the way to an external explosion which may prove fatal to the Republic? 'Tis now evident, that another vigorous campaign will be essayed by the allies. The result is, and must be incalculable.

"To you, Sir, it is unnecessary to urge the extreme precariousness of the events of war. The inference to be drawn is too manifest to escape your penetration. This country ought not to set itself afloat upon an ocean so fluctuating, so dangerous, and so uncertain, but in a case of absolute necessity.

"That necessity is certainly not yet apparent. The circumstances which have been noticed with regard to the recent change of conduct on the part of Great Britain authorize a strong hope, that a negotiation conducted with ability and moderation, and supported at home by demonstrations of vigor and seriousness, would obviate those causes of collision which are the most urgent; might even terminate others which have so long fostered dissatisfaction and enmity. There is room to suppose, that the moment is peculiarly favorable to such an attempt. On this point, there are symptoms of a common sentiment between the advocates and the opposers of an unembarrassed attempt to negotiate, the former desiring it from the confidence they have in its probable success; *the latter, from the same cause, endeavoring either to prevent its going on under right auspices, or to clog it with impediments which will frustrate its effect.*

"All ostensibly agree that one more experiment of negotiation ought to precede actual war; but there is this serious difference in the practice. The sincere friends of peace and accommodation are for leaving things in a state which will enable Great Britain, without abandoning self-respect, to do us the justice we seek. The others are for placing things upon a footing which would involve the disgrace or disrepute of having receded through intimidation.

"This last scheme indubitably ends in War. The folly is too great to be seriously entertained by the discerning part of those who affect to believe the position—that Great Britain, fortified by the alliances of the greatest part of Europe, will submit to our demands, urged with the face of coercion and preceded by acts of reprisal. She cannot do it without renouncing her pride and her dignity; without losing her consequence and weight in the scale of nations; and consequently, it is morally certain, that she will not do it. A proper estimate of the operation of the human passions must satisfy us, that she would be less disposed to receive the law from us than from any other nation; a people recently become a nation, not long since one of her dependencies, and as yet, if a Hercules—a Hercules in the cradle.

"When one nation inflicts injuries upon another which are causes of war, if this other means to negotiate before it goes to war, the usual and received course is to prepare for war and proceed to negotiation, avoiding reprisals till the issue of the negotiation. This course is recommended by all enlightened writers on the laws of nations, as the course of moderation, propriety and wisdom; and it is that commonly pursued except where there is a disposition to go to war or a commanding superiority of power.

"Preparation for war in such cases contains in it nothing offensive. It is a mere precaution for self-defence, under circumstances which endanger the breaking out of war.

"It gives rise to no point of honor which can be a bar to equitable and amicable negotiation. But acts of reprisal speak a contrary effect, they change negotiation into peremptory demand, and they brandish a rod over the party on whom the demand is made. He must be humble indeed if he comply with the demand to avoid the stripe.

"Such are the propositions which have lately appeared in the House of Representatives for the sequestration or arrestation of British Debts; for the cutting off of all intercourse with Great Britain, till she shall do certain specific things. If such propositions pass, they can only be regarded as provocatives to a declaration of War by Great Britain.

"The sequestration of debts is treated by all writers as one of the highest species of Reprisal. It is, moreover, contrary to the most approved practice of the present century, to what may be safely pro-

nounced to be the modern rule of the law of nations, to what is so plainly dictated by original principles of Justice and good faith, that nothing but the barbarism of times in which war was the principal business of man could ever have tolerated an opposite practice; to the manifest interest of a people situated like that of the United States, which, having a vast fund of materials for improvement in various ways, ought to invite into the channels of their industry the capital of Europe, by giving to it inviolable security; which, giving little facility to extensive revenue from taxation, ought for its own safety in war to cherish its credit by a religious observance of the rules of credit in all their branches.

"The proposition for cutting off all intercourse with Great Britain has not yet sufficiently developed itself to enable us to pronounce what it truly is. It may be so extensive in its provisions as even to include in fact though not in form sequestration by rendering remittances penal or impracticable. Indeed, it can scarcely avoid so far interfering with the payment of debts already contracted, as in a great degree to amount to a virtual sequestration. But, however this may be, being adopted for the express purpose of retaliating or punishing injuries to continue until those injuries are redressed, it is in the spirit of a reprisal. Its principle is avowedly coercion; a principle directly opposite to that of negotiation, which supposes an appeal to the reason and justice of the party. Caustic and stimulant in the highest degree, it cannot fail to have a correspondent effect upon the minds of those against whom it is directed. It cannot fail to be viewed, as originating in motives of the most hostile and overbearing kind; to stir up all the feelings of pride and resentment in the nation, as well as in the Cabinet; and consequently, to render negotiation abortive.

"It will be wonderful, if the immediate effect of either of these measures be not either War, or the seizure of our vessels wherever they are found, on the ground of keeping them as hostages for the debts due to the British Merchants, and on the additional ground of the measures themselves, being either acts of hostility or evidence of a disposition to hostility.

"The interpretation will naturally be, that our views originally pacific have changed with the change in the affairs of France, and are now bent towards War.

"The measures in question, besides the objection to them resulting from their tendency to produce War, are condemned by a comprehensive and enlightened view of their operation in other respects.

"They cannot but have a malignant influence upon our public and mercantile credit. They will be regarded abroad as violent and precipitate. It will be said, that there is no reliance to be placed on the

steadiness or solidity of concerns with this people. Every gust that arises in the political sky is the signal for measures tending to destroy their ability to pay, or to obstruct the course of payment. Instead of a people pacific, forbearing, moderate, and of rigid probity, we see in them a people turbulent, hasty, intemperate and loose—sporting with their individual obligations and disturbing the general course of their affairs with levity and inconsiderateness.

"Such will indubitably be the comments upon our conduct. The favorable impressions now entertained of the character of our Government and Nation will infallibly be reversed.

"The cutting off intercourse with Great Britain, to distress her seriously, must extend to the prohibition of all her commodities, indirectly as well as directly. Else it will have no other operation than to transfer the trade between the two Countries to the hands of foreigners, to our disadvantage more than to that of Great Britain.

"If it extends to the total prohibition of her commodities, however brought, it deprives us of a supply for which no substitute can be found elsewhere, a supply necessary to us in peace, and more necessary to us if we are to go to War. It gives a sudden and violent blow to our revenues, which cannot easily, if at all, be repaired from other resources. It will give so great an interruption to commerce as may very possibly interfere with the payment of the duties which have heretofore accrued, and bring the Treasury to an absolute stoppage of payment—an event which would cut up credit by the roots.

"The consequences of so great and so sudden a disturbance of our trade which must affect our exports as well as our imports, are not to be calculated. An excessive rise in the price of foreign commodities, a proportionable decrease of price and demand of our own commodities, the derangement of our revenue and credit; these circumstances united, may occasion the most dangerous dissatisfactions and disorders in the community, and may drive the Government to a disgraceful retreat, independent of foreign causes.

"To adopt the measure *in terrorem* and postpone its operation will be scarcely a mitigation of the evil. The expectation of it will as to our imports have the effect of the reality; since we must obtain what we want chiefly upon credit. Our supply and our revenue therefore will suffer nearly as much as if there was an immediate interruption.

"The effect, with regard to our peace, will be the same. The principle being menace and coercion will equally recommend resistance to the policy, as well as the pride of the other party. 'Tis only to consult our own hearts to be convinced, that nations like individuals revolt at the idea of being guided by external compulsion. They will,

at least, only yield to that idea after resistance has been fruitlessly tried in all its forms.

"'Tis as great an error for a Nation to overrate as to underrate itself. Presumption is as great a fault as timidity. 'Tis our error to overrate ourselves, and underrate Great Britain, we forget how little we can annoy, how much we may be annoyed.

"'Tis enough for us, situated as we are, to be resolved to vindicate our honor and rights in the last extremity. To precipitate a great conflict of any sort is utterly unsuited to our condition, to our strength, or to our resources. This is a truth to be well weighed by every wise and dispassionate man as the rule of public action.

"There are two ideas of immense consequence to us in the event of war. The disunion of our enemies—the perfect union of our own citizens.—Justice and moderation, united with firmness, are the means to secure both these advantages. Injustice or Intemperance will lose both.

"Unanimity among ourselves, which is the most important of the two ideas, can only be secured by its being manifest, if war ensues, that it was inevitable by another course of conduct. This cannot and will not be the case, if measures so intemperate as those which are meditated, take place. The inference will be, that the war was brought on by the design of some, and the rashness of others. This inference will be universal in the Northern States, and, to you, Sir, I need not urge the importance of those States in war.

"Want of unanimity will naturally tend to render the operations of war feeble and heavy; to destroy both effort and perseverance. War undertaken under such auspices can scarcely end in any thing better than an inglorious and disadvantageous peace, what worse it may produce is beyond the reach of human foresight.

"The foregoing observations are designed to convey to the mind of the President information of the true state of things at the present juncture, and to present to his consideration the general reasons which have occurred to me against the course of proceeding which appears to be favored by a majority of the House of Representatives.

"My solicitude for the public interest, according to the view I have of it, and my real respect and regard for him to whom I address myself, lead me to subjoin some reflections of a more delicate nature.

"The crisis is such a one as involves the highest responsibility on the part of every one who may have to act a part in it. It is one, in which every man will be understood to be bound to act according to his judgment, without concession to the ideas of others. The President, who has by the Constitution a right to object to laws, which he deems contrary to the public interest, will be considered as under an indis-

pensable obligation to exercise that right against any measure relating to so vast a point as that of the peace of the Country, which shall not accord with his opinion. The consideration of its having been adopted by both Houses of Congress and of respect for their opinion, will have no weight in such a case as a reason for forbearing to exercise the right of objection. The consequence is, that the not objecting will be deemed conclusive evidence of approbation, and will implicate the President in all the consequences of the measure.

"In such a position of things it is, therefore, of the utmost importance to him as well as to the community, that he should trace out in his own mind such a plan as he thinks it would be eligible to pursue; and should endeavor by proper and constitutional means to give the deliberations of Congress a direction towards that plan.

"Else he runs the risk of being reduced to the dilemma, either of assenting to measures, which he may not approve, with a full responsibility for consequences; or of objecting to measures which have already received the sanction of the two Houses of Congress, with the responsibility of having resisted, and probably prevented what they meditated. Neither of these alternatives is a desirable one.

"It seems advisable then, that the President should come to a conclusion whether the plan ought to be preparation for war and negotiation, unincumbered by measures which forbid the expectation of success; or immediate measures of a coercive tendency to be accompanied with the ceremony of a demand of redress. For, I believe there is no middle plan between those two courses.

"If the former appears to him to be the true policy of the Country, I submit it, as my conviction, that it is *urgent* for him to demonstrate that opinion, as a preventive of wrong measures and future embarrassment.

"The mode of doing it which occurs is this; to nominate a person who will have the confidence of those who think peace still within our reach and who may be thought qualified for the mission, as envoy extraordinary to Great Britain; to announce this to the one as well as the other House of Congress, with an observation, that it is done with an intention to make a solemn appeal to the justice and good sense of the British Government, to avoid, if possible, an ulterior rupture, and adjust the causes of misunderstanding between the two Countries; and with *an earnest recommendation that vigorous and effectual measures may be adopted to be prepared for war, should it become inevitable;—abstaining for the present from measures which may be contrary to the spirit of an attempt to adjust existing differences, by Negotiation.*

"Knowing, as I do, Sir, that I am among the persons who have been in your contemplation to be employed in the capacity I have men-

tioned, I should not have taken the present step, had I not been resolved, at the same time, to advise you with decision to drop me from the consideration, and to fix upon another character. I am not unapprised of what has been the bias of your opinion on the subject. I am well aware of all the collateral obstacles which exist; and, I assure you, in the utmost sincerity, that I shall be completely and entirely satisfied with the election of another.

"I beg leave to add, that of the persons whom you would deem free from any constitutional objections, Mr. Jay is the only man in whose qualifications for success there would be a thorough confidence, and him whom alone it would be advisable to send. I think the business would have the best chance possible in his hands; and, I flatter myself, that his mission would issue in a manner that would produce the most important good to the Nation.

"Let me add, Sir, that those whom I call the sober-minded men of the Country look up to you with solicitude upon the present occasion. If happily, you should be the instrument of still rescuing the Country from the dangers and calamities of War, there is no part of your life, Sir, which will produce to you more real satisfaction or true Glory, than that which shall be distinguished by this very important service.

"In any event, I cannot doubt, Sir, that you will do justice to the motives which impel me, and that you will see in this proceeding another proof of my sincere wishes for your honor and happiness, and anxiety for the public weal.———With the truest respect and attachment, I have the honor to be, Sir, Your most obedient and humble Servant."

Much as the friends of Hamilton may, at the time, have desired, that to him should belong the distinction of executing this mission—it were to be regretted, if this opportunity of making another personal sacrifice to the public welfare had not occurred.

This letter was decisive.—The President immediately sent for Jay, and offered him the mission.—Without at once accepting it, the Chief Justice also expressed his opinion of the prohibitory measures before Congress; that they would be considered by Great Britain as a menace; and if adopted, that she ought to refuse to negotiate.

On the evening of the day this letter is dated, the

President directed Randolph to prepare a message, nominating an envoy. The order was renewed the following morning, April fifteenth, in a tone indicative of dissatisfaction. He wrote to him, "My objects are to prevent a war, if justice can be obtained by fair and strong representations (to be made by a special envoy) of the injuries which this country has sustained from Great Britain in various ways, to put it into a complete state of military defence, and to provide eventually such measures for execution, as seem to be now pending in Congress, if negotiation in a reasonable time proves unsuccessful."*

* The sentiments of Washington are seen in a reply of this date to Richard Henry Lee, who pronounced "the *trade resolves*, introduced to Congress by" Madison, "partial, very ill-timed, and totally unnecessary." "The British ministry, as you will have perceived by Mr. Pinckney's letter to the Secretary of State," Washington answered, "disclaim any hostile intentions towards this country, in the agency they had in bringing about the truce between Portugal and Algiers; yet the tenor of their conduct, in this business, has been such, added to their manœuvres with our Indian neighbors, but more especially with respect to the late orders of the king in council, as to leave very unfavorable impressions of their friendship; and little to expect from their justice, whatever may result from that of the interest of their nation." Ap. 15, 1794. Washington's Writings, x. 401.

CHAPTER CV.

THE motion to prohibit all intercourse with Great Britain was brought forward, in the first instance, as a measure of hostility. The increased violence with which it was supported in the House, and urged without, had a double object—to fasten odium on the advocates of peace, and to deter the President from instituting a mission.—When his wishes were ascertained, the next effort was to obtain the appointment of a person who had committed himself violently against Great Britain, would be unacceptable to her government, and would probably prevent a satisfactory adjustment of the existing differences. As long as any hope was entertained, that Jefferson or Madison would be selected, the action on the prohibitory resolutions was suspended,* but on the fourteenth of April, the date of Hamilton's letter to the President, they passed in Committee.

Two circumstances prompted this vote at this time; the ascertained determination of the President to institute a mission, and the arrival of further conciliatory despatches from London, explanatory of the offensive in-

* "These propositions were discussed with animation, but notwithstanding an ascertained majority in their favor, were permitted to remain undecided, as *if their fate depended on some extrinsic circumstance.*"—Marshall's Washington, v. 539.

structions, as a modification of the law of nations, and declared to be, a "proof of the sincere disposition of that government to cultivate and maintain the most cordial harmony and good understanding with the United States."

Believing that these despatches would indicate the propriety of deferring the proceedings in the House of Representatives,—aware of the motives which had caused the delay of the opposition, after so decided a majority in their favor being ascertained, and hoping that it might be induced to postpone a final decision of this subject, the previous question was called by a friend of the administration.

But baffled, disappointed and angered by this great stroke of Executive policy, the opposition resolved to interpose an effectual barrier to the success of the mission; and the decisive vote of fifty-three to forty-four members was given in favor of these hostile resolutions. They were instantly rejected by the Senate, as an interference with the proposed mission.

The necessity of the immediate nomination of an envoy was now obvious, and an interview was held with Jay by Hamilton, Cabot and other leading Senators, the object of which was to induce his immediate acceptance of the mission. Alive to the importance of the measure, he did not refuse his assent; and, in order to prevail upon the President to embody in the message nominating him, the recommendation suggested in Hamilton's letter, that the House "should abstain for the present from measures which may be contrary to the spirit of an attempt to adjust existing differences by negotiation," he was requested to mention to him his unwillingness to serve, if his mission were preceded by so offensive a menace.

On the following day, the nomination of Jay was an-

nounced to the Senate in a message from the President, in these terms:

"The communications which I have made to you during your present session, from the despatches of our minister in London, contain a serious aspect of our affairs with Great Britain. But, as peace ought to be pursued with unremitted zeal, before the last resource, which has been so often the scourge of nations, and cannot fail to check the advanced prosperity of the United States, is contemplated, I have thought proper to nominate and do hereby nominate, John Jay as Envoy Extraordinary of the United States to his Britannic Majesty. My confidence in our Minister Plenipotentiary in London remains undiminished.—But a mission like this, while it corresponds with the solemnity of the occasion, will announce to the world a solicitude for a friendly adjustment of our complaints, and a reluctance to hostility. Going immediately from the United States, such an Envoy will carry with him a full knowledge of the existing temper and sensibility of our Country, and will thus be taught to vindicate our rights with firmness, and to cultivate peace with sincerity."

This definitive step being taken; it was hoped, that the opposition would suspend its violence, but Hamilton had judged more correctly of its designs, and hence he had urged a direct expression of the President, as to the propriety of abstaining from measures of an irritating tendency. He believed, as faction had heretofore been checked in its career by the force of Washington's popularity, that this, and no other influence, would compel it to pause.

Proceedings were had in the mean time as to the continuance of the embargo, not a little indicative of the dispositions of a majority of the House.—The original Res-

olution provided for a general embargo.—It was now moved to amend it, so as to except foreign bottoms from its operation. This was objected to as an injurious discrimination, tending to drive the American seamen into the employment of foreign powers;—and to frustrate one of the objects of the embargo—a pressure on the British West Indies.—The amendment failed.

The injurious effects of the embargo on the interests of France had been apprehended; and when the resolution was considered in the House, it was suggested, that Sweden was positively exempted by treaty from Embargoes, and that France, Holland, and other Powers in treaty, being entitled to the privileges of the most favored Nations, were also exempt, and ought to be expressly excepted.—In reply, it was said, that rights enjoyed by treaty could not be affected by an act of Congress.—The interpretation of the treaty with Sweden was controverted; and it was alleged only to extend to the privilege of departing with their vessels, not to that of exporting produce. Any other interpretation would prevent the protection of commerce.—An amendment was, nevertheless, made, excepting from its operation nations in treaty, and thus changing its character from a protective to a vindictive measure against England.

This modification was at the instance of the French Ambassador.*

On the eighteenth of April, two days after Jay was nominated, the consideration of the non-intercourse resolution was resumed, and the subject was discussed in reference to the new aspect it had assumed, in consequence of that nomination.

To the allegations that the adoption of this Resolution

* Randolph's Vindication.

at the present time would be a bar to the negotiation; —was an infringement of the Constitutional right of the Executive to negotiate, and an indelicacy toward that department, it was answered,—that the Legislature not only had the sole right to regulate commerce, but that it was strictly within its Constitutional duty. If there was any indelicacy, the indelicacy was on the part of the President, as this resolution had been pending before the nomination of any Envoy was made.

It was again denied, that it would lead to War, because, as an independent nation, the United States possessed the right to regulate their commerce; and, it was asserted, that it would prove the best means of bringing the negotiation to a happy issue.—The motion to proceed prevailed by a full party vote.—A modification was then proposed to the effect, that the intercourse should be restored, when the definitive treaty should be fulfilled, and reparation made for the recent injuries to the satisfaction of the President.

This was withdrawn, to give place to an amendment offered by Madison, intended to remove the ground for the rejection of the bill by the Senate—that it was an invasion of the powers of the Executive. This amendment omitted to specify the conditions on which the intercourse should be restored.*

This discussion was renewed three days after. The time from which the non-intercourse act was to go into effect was limited to the first of the following month

* "Whereas the injuries suffered and likely to be suffered by the United States from a violation of our mutual rights and Commercial interests, on the part of Great Britain; and also from a failure in the execution of the 7th Article of the Treaty of Peace made it expedient, that our Commercial intercourse with that Nation should not remain as extensive as it now is, therefore resolved, that from the ——— day of ——— next our Commercial intercourse with that Nation be suspended."

of November, and the prohibition of all articles of the growth or manufacture of Great Britain was extended, so as to preclude an indirect importation of them—thus avoiding another objection to the measure, as it was originally proposed.

On the twenty-fourth of April, a letter from the Committee of "Public Safety" was read in the House of Representatives—announcing the continued victories of France, and her desire "to draw still closer the bonds of friendship which unite two great, generous, and free Nations;" and on the same day, a motion to re-enact the embargo was laid upon the table.*

The next day, (the twenty-fifth,) a bill framed by Madison upon the principles of the Resolution passed the House;—six days after the nomination of Jay had been confirmed by the Senate.

The final passage of this bill was denounced by Smith† in terms fully conformable to Hamilton's views. It contained "a *menace* which would inevitably defeat all negotiation; England would reply to our overtures, 'We were disposed to accommodate all differences on the most amicable terms, but such a disposition under the

* Madison to Jefferson—"The Republicans were assured, that the Embargo if continued would be considered by France, as hostility. * * A motion was put on the table yesterday for re enacting it. Measures of this sort are not the fashion. To supplicate for peace, and, under the uncertainty of success, to prepare for war, by taxes and troops, is the policy which now triumphs [under the patronage of the Executive.] The influence of the Executive on events—the use made of them and the public confidence in the President are an overmatch for all the efforts Republicanism can make." May 25, 1794. The words within brackets are in the original, but are thus marked to be omitted in the copy prepared under Madison's direction for publication. Similar instances are frequent. See files in the Department of State.

† Of S. C.

present circumstances would appear to be the result of fear, excited by your threats; and would commit our reputation in the eyes of the world.—You must therefore pursue your measures, and we will pursue ours.' Why do you so frequently exclaim, addressing himself to the opposition, 'What, shall we negotiate with a nation which has violated our rights?' When was negotiation necessary, but in the case of violated rights? Were you not the first to urge negotiation with Algiers, who had captured our vessels and degraded our miserable fellow-citizens to the level of beasts of burthen? Did you not oppose the naval armament, lest it should irritate the Algerines, and prevent the success of a negotiation?—Was it not the constant policy of this country to negotiate with the Indians, when practicable, rather than make war? Why then, raise objections to a negotiation with England, or why, having admitted that negotiation shall be attempted, defeat it by these projects?

"If you are ripe for war—let us say so and act consistently, but let us not hold one language at one time, and contradict it at another. Let us not say we are for peace, and immediately adopt a war measure. The negotiation having been determined on, he felt himself bound to resist any and every act which tended to frustrate that negotiation. But while he was for gentle terms, he was for resolute action; and he called upon the advocates of this scheme to join him in measures, which, while they were free from these objections, would either give effect to the negotiation, or prepare us for the event of its failure. It has been said by a Member, 'We have fortified our harbors, we have filled our arsenals, we have increased the military establishment, now we must do something more.' In the warmth of his imagination, he had mistaken things to be done, for things actually done.—We have *not* taken

any of these measures, for, although determined on *paper*, the revenues necessary to carry them into effect have not been created.

"It is proposed, that the non-importation shall take effect from the first of November next, to afford time for the result of the negotiation being ascertained, and that Congress may be in Session, to repeal the law, if it succeeds. Thus, the very law, which admits the propriety of a negotiation, carries with it the death wound to all negotiation, by expressly purporting to be *in terrorem*. If not intended as a threat, why not wait until November, and then adopt the measure, if expedient? If you then should deem it expedient, you cannot repeal it without the concurrence of the President and Senate.—You thus frustrate the judgment of the House and deprive it of that independence which it ought to possess. It had been applauded, as *a stepping-stone to sequestration*, he thought it could be more properly called a *stumbling-block to negotiation*. In both shapes he disapproved it. He objected to it, both as to the *mode*, and as to the *time*. As to the mode, because it specified particular grievances, and thus, while it embarrassed our Executive, menaced the Executive of the nation with whom we are to treat, and made the redress of those grievances, the *sine qua non* of all future intercourse. As to the *time*, because the only object of their passing it was, that it might operate as a threat, and thus undoubtedly defeat all accommodation. The ground of negotiation being taken, they were bound to reject every measure tending to defeat it, and to do every thing which may promote its success. But as a Neutral Nation could not justly give umbrage by taking measures to support her neutrality, and to exert her just rights, he pledged himself to concur in every act which might place us in a condition to make ourselves respecta-

ble, to vindicate our National honor, and to obtain ample retribution for and wrongs which the course of events might leave unredressed."

Madison's bill was immediately reported to the Senate. A motion to commit it was defeated. The first section was negatived by a majority of three voices. The remaining sections fell; and a motion for the third reading was, on the same day, rejected by the casting vote of the Vice President, one Senator, whose sentiments were hostile to it, being then absent.

This defeat of a measure so long the favorite object of Jefferson's policy; which, as its author, had mingled itself with all his prejudices and all his hopes, to the success whereof he had sacrificed so much of truth and faith, he deeply felt. Unhesitating, and unrestrained, and unscrupulous in his opposition to other men, and to their opinions, he could not brook opposition to himself, not even to his fluctuating theories. Society, mankind, the world were only seen by him as they bore or could be made to bear upon himself. Every barrier in the march of his ambition he denounced with unsparing violence. Each conservative principle in the government—each of its great powers or departments became, in its turn, the object of his derision or of his denunciation—now the power of impeachment—then the treaty power—at one moment, the Judiciary,—at another, the Senate; yet, in course, he would have controlled each and all, to make them the servile instruments of some purpose or feeling; partisan or personal.

Stung with this defeat, he writes to Madison on the fifteenth of May; "Yesterday I received Colonel Monroe's of the fourth instant, informing me of the failure of the Non Importation bill in the Senate. This body was intended as a check on the will of the Representatives,

when too hasty. They are not only that, but completely so on the will of the people also, and, in my opinion, are heaping coals of fire, not only on their persons but on their body, as a branch of the legislature. * * * It seems that the opinion is fairly launched into public, that they should be placed under the control of a more frequent recurrence to the will of their constituents. This seems requisite to complete the experiment, *whether they do more harm or good.*"

The day previous, in a letter in answer to Washington, he wrote, "My opinion of the British government is, that nothing will force them to do justice but the loud voice of their people; and that this can never be excited but by distressing their commerce. But I cherish tranquillity too much to suffer political things to enter my mind at all."*

How so close a division should have taken place in that high Council, after the decided majority on the nomination of a special Envoy, it is not easy to comprehend, unless it was supposed by the minority, less offensive to public feeling to have enacted a law that would produce a war, than to have opposed a direct measure of the President tending to peace.

The hostility to Jay had been much increased by his recent participation in fixing upon Genet the odium of his menaced appeal to the people. His nomination had been considered on the seventeenth of April. Monroe opposed it. He urged, as one objection, that Jay entertained views evinced by his Reports to Congress, when in the Department of foreign affairs, inconsistent with the true interests of the Country. That he then pronounced in favor of the Interest on British debts; and admitted, that the

* Jefferson's Works, iii. 306. May 14, 1794.

United States had committed the first infraction of the Treaty of peace, and therefore that Great Britain was warranted in holding the Posts,—that he had also manifested opinions unfriendly to the territorial claims of the United States; that a secret treaty had recently been formed between Spain and Great Britain which probably related to this question. Holding such opinions, he was an unfit representative. His views as to the navigation of the Mississippi were also a strong ground of opposition. In his negotiation with Spain he would have signed a treaty stipulating a forbearance of its use for a period of twenty-five or thirty years; and would have submitted the question of Boundary to the decision of Commissioners.

The incompatibility of this mission with the office of Chief Justice was also stated, and its tendency to undermine the independence of the Judiciary, by favors conferred by the Executive Department, was objected to as a violation, if not of the letter, of the spirit of the Constitution.

These objections were raised upon two successive motions: One, to defer the nomination until Jay's report in reply to Adams * should be laid before the Senate; the other, that the President ought to state the whole objects of the negotiation with which he was to be charged. Both these motions were rejected. The subject was resumed the next day, when the Senate agreed to postpone it in order to act upon a Resolution from the House for a continuance of the Embargo—which they passed, after striking out the proviso in favor of *nations in treaty*.

A motion was then made to postpone the consideration of the nomination, until the Senate had acted upon

* Infra, Vol. iii. 114.

the Post-Office bill, which was negatived; and a Resolution passed, that all the Reports of Jay, when Secretary of foreign affairs, be laid before the Senate.

These documents were submitted the next day, when two Resolutions were offered by Aaron Burr.—One, that any communications to be made to the Court of Great Britain might be made through our Minister now at that Court with equal facility and effect, at much less expense, than by an Envoy Extraordinary, and that this appointment was therefore inexpedient and unnecessary; *—the other, that to permit Judges of the Supreme Court to hold at the same time any other office, emanating from and at the pleasure of the Executive, was contrary to the spirit of the Constitution—mischievous and impolitic."

Both these Resolutions were rejected—ten members voting in their favor—and the appointment of Jay was confirmed by a vote of eighteen to eight.†

It was important that he should proceed immediately on his mission; and four days after his nomination Hamilton submitted to the President "Points for consideration in his instructions." These were placed in the hands of Randolph, who presented to the Cabinet his draft of this important document on the fourth of May. As will be

* It is not a little remarkable, that it should have been stated, "that the opposition to it (the appointment) in the Senate (as far as the public have any knowledge of it) was made, *not* to the measure of appointing an *Envoy Extraordinary*, but to the appointment of the Chief Justice of the U. S. for that service"—see "Political Observations" by James Madison, page 15. These resolutions were published in "the Gazette of the United States," on the 29th April, 1794, previous to the publication of these "Observations."

† *Affirmative:* Bradford, Bradley, Cabot, Ellsworth, Foster, Frelinghuysen, Greene, Henry, Jackson, Izard, King, Langdon, Livermore, Morris, Potts, Rutherford, Strong and Vining—18.—*Negative:* Brown, Burr, Butler, Edwards, Hawkins, Martin, Monroe and Taylor—8. Greene and Robinson, with these, composed the minority of ten on the former Resolutions.

seen, it was modified in part, and on the twelfth of that month, Jay embarked.

That the minority of the Senate were actuated by motives similar to those which impelled the majority of the other House, had been shown by the efforts to pass the act for a non-intercourse with Great Britain. But this was not the only instance in which their struggle for power prompted a course it might be difficult to defend. While this act was under discussion in the House of Representatives, and after the appointment of Jay, the answer proper to be transmitted in reply to the letter of "the Committee of Public Safety," was considered.

After a motion to refer this letter had been negatived, a Resolution was offered, that the President should be requested to cause it to be answered in behalf of the United States, "in such a manner as should manifest their sincere friendship and good will for the French Republic." This was rejected.

That the very moment when the Secretary of foreign affairs had reported instances of frequent aggression by France upon the American commerce, of positive violations of the Treaty of Alliance; and when such recent evidence had been given of an effort by her Minister to involve the United States, both in a war with Spain and with Great Britain, in pursuance of express instructions of his Government—that such a time, when, for injuries less offensive to the interests and to the Independence of this Nation, the most hostile measures had been proposed toward Great Britain, should be selected to renew expressions of attachment to that Country, might well excite the amazement of the friends of Peace.

The possibility of a contest with Great Britain would suggest the policy of a decorous reply; but the dignity of the nation forbade any thing more. Yet, at this very

instant, a motion was made to amend this resolution, so as to add congratulations *upon the late brilliant successes of the arms of the Republic and the establishment of liberty and order*, and the progress of industry,"—congratulations, by a nation claiming the immunities of neutrality, upon the successes of the arms of one belligerent over those of another, with whom it proposed to negotiate,—congratulations upon "the establishment of liberty and order," when France had just undergone a Revolution more bloody than any other of its many changes—when "the MOUNTAIN;" had given place to "The Committee of Public Safety;" when "Danton" had been succeeded by "Robespierre;" when the "Republic" was a system of political murders, and the Revolutionary Tribunal was the ordinary engine of Government; when, as Jefferson had wished, "the scaffolds" were "deluging with human blood."

This amendment failed; and under the force of circumstances, the original Resolution was unanimously adopted.

A procedure of a more marked character followed. An attempt in the House of Representatives, has been mentioned, to connect, with a proposition to indemnify the merchants for the recent captures, a Resolution for a sequestration of British debts—of debts, to avoid the payment of which, every effort had been made in Virginia, even to the extent of opposing the adoption of the Constitution, now offered in satisfaction of the losses of the navigating interest. This insidious artifice to gain support to so discreditable a proposition, offering an equivalent which would eventually have proved of no value, had not been pressed to a decision, before the Government disclosed its purpose to negotiate.

Notice of a motion was now given by Monroe for

leave to bring in a bill to *suspend* the Fourth Article of the Definitive Treaty, until a satisfactory compliance by Great Britain with her stipulations.

This motion was brought forward, the following day; and was opposed by Strong on the ground, that it was an admission, that the United States had violated the Treaty, and that they could not with more propriety declare their determination to suspend its execution, until Great Britain had executed her part, than she would have to take the same course towards the United States,—that New England had complied fully with the Treaty; that the measure proposed would be partial in its operation, applying to some, and not to other States. If America demanded justice—she should prefer her demand "with clean hands."

Ellsworth observed, that the measure appeared to proceed from an obedience to instructions, rather than to be dictated by the judgment of its movers.—The Government had adopted pacific measures. Will it be prudent by such an act to irritate Great Britain, and to expose our property in her hands to be sacrificed?

Izard declared, he would not discuss the policy of such a measure, but would inquire by what right the Legislature can suspend a Treaty? Will the Judiciary regard your law? Is not the Treaty paramount to any act of legislation?

"I deem the proposition ill-timed," said Jackson.* "I wish for peace, and am opposed to every harsh measure under the present circumstances. I will move the previous question;—but I will not admit, that the Southern States are to be condemned for not having paid their debts. The abduction of their Negroes rendered them unable to do it."

* Jackson of Georgia.

Taylor, the colleague of Monroe, remarked, "I disapprove of the mild and supplicatory course prescribed for America. We shall proceed until the People will be no longer restrained. As a question of Justice—the Law of Nations requires the strong nation to perform the first act. We have a right to require of Great Britain to perform the treaty, on her part. We of the South are entitled to the same protection as the East. Our Negroes and the Posts should be alluded to, as well as the spoliations on our commerce." "The former is an old, the latter a recent injury. An Envoy is dispatched to obtain redress for the latter. No measures are taken to obtain reparation for the former. The Negroes and the Posts will be sacrificed to obtain satisfaction for commercial spoliations. Our being debtors does not influence our conduct.* I never knew a legislature in Virginia of which, one-fifth were British debtors—neither I nor any of my relatives are debtors."

The debate was brief and sharp. A motion for the previous question was made, and, it was resolved by a majority of five votes—that the main question should be taken. The vote was then called, whether leave should be given to bring in the bill, and it was refused, by a decision of fourteen to two, Monroe and Taylor only voting in the affirmative. Of the remaining Senators, five were absent,† from the seat of government, five retired to the lobby;‡ Martin of Kentucky requested to be excused from voting; and Burr, who was notified that the debate was progressing, absented himself, unwilling

* The Vice President writes, "These debtors are the persons who are continually declaiming against the corruption of Congress. Impudence! thy front is brass."

† Bradley, Gunn, Mitchel, Rutherford and Vining.

‡ Brown, Butler, Edwards, Hawkins and Jackson.

to unite in a measure upon which public opinion pronounced so stern a condemnation. Virginia stood alone.

While the House was engaged with Madison's agitating resolutions, the Senate was occupied with the consideration of laws to preserve neutrality.

It had been the course of the legislation, that measures relating to the jurisprudence of the Country should originate in that body.

Adhering to this practice, and probably with a view to ensure to the subject a more mature and calmer consideration, than could be expected amidst the excited discussions of the other branch of the legislature, a bill was introduced into the Senate, in addition to the "Act for the punishment of certain crimes against the United States."

The doubts of the Courts of the United States, under particular circumstances, of their power to liberate the vessels of a nation at peace, (and even of a citizen of the United States,) although the vessels were seized under the false color of being hostile property, and their denial of their power to liberate certain captures within the protection of their territory, were adverted to by Hamilton, when drawing a part of the opening speech to Congress, as evincing the propriety of the regulation of their jurisdiction on these points.

The necessity of the extension of the legal code to cases of infraction of neutrality, and of conferring on the President the requisite powers to maintain its observance, had also been urged, as involving consequences which required "an early and close attention" and "prompt and decisive remedies."

The motives to these suggestions have been sufficiently indicated in the narrative of the events of the preceding year; where it has been seen that the very evils which it

was intended to correct or to prevent, emanated from Genet; that he insisted, that the American Courts could not take cognizance of questions, whether Vessels held by the French as *prizes* were lawfully held or not; and that the jurisdiction exclusively appertained to the French consulates, sitting in the United States.

The President's opposition to these aggressions was denounced—as a violation of the Constitution—as an infringement of the rights of the Legislature—as a breach of the Treaty with France—as evidence of a desire to league with despots and tyrants,—and, as an invasion of natural rights, by depriving the citizen of the sacred privilege of assisting in the promotion of the cause of liberty.

The frenzy of the moment assailed Washington for these acts, but expediency induced the Democratic party to retreat from ground so dangerous to their popularity. This compulsory admission of their error the more inflamed their leaders against Hamilton, as the author of these measures. It was no part of their policy to give them legislative sanction.

A bill embracing the several objects he contemplated was brought before the Senate in February. It was repeatedly postponed, and obstinately opposed, until it came to a third reading, in the middle of March. A motion to expunge the section, prohibiting the sale,* within the United States, of prizes made of any country with which they were at peace, was then only lost, by the casting vote of the Vice President. An effort to limit the duration of the

* In an *official* letter, Jefferson remarked, referring to this subject, "We have done what is unstipulated in our own treaties, and unfounded in the practice of France, or in that of any other nation." "To them" (the French) "we have, with the utmost assiduity, given every proof of inviolate attachment." Jefferson to Pinckney, Nov. 27, 1793, Works iv. 86.

act to a period of six months failed. It included a provision, by which, in case of any vessel being armed, or of its armament being increased, or of any military expedition being set on foot in the United States against any State with which they were at peace, or of any vessel being captured within their jurisdiction, or of resistance by persons having made such captures to the process of the Courts, the President was empowered to employ the regular force or militia to prevent such acts, and to detain and restore such vessel. The grant of a power so essential to the sovereignty—the peace and the character of the nation was also vehemently opposed. The Senate were equally divided, and this important clause was also retained, only, by the controlling voice of the Vice President. The enactment of this law had been * objected to by the French Minister.

A bill had also been introduced for the defence of the South Western Frontiers. It provided a plan of defence by Posts, to be garrisoned by Militia, with constant patroles between these Posts. When this bill came before the Senate, aware of the inefficiency, and of the expensiveness of Militia, a substitute was proposed by King. It authorized the President, in case he should deem it inexpedient to employ militia, to raise a body of twelve hundred men, expressly for this service. A clamor was immediately excited against intrusting Washington with this power, and the Resolution was defeated by Aaron Burr.

* Randolph's Vindication, p. 15, 18.

CHAPTER CVI.

The other deliberations of Congress chiefly related to the Fiscal operations of the Government. As this was the first session in which the Democratic party had a decided majority in that branch of the Legislature, wherein by the Constitution "all bills for raising Revenue" were to originate, it is interesting to mark its course; and to ascertain whether any of those laws, which had been the subjects of invective, were modified or repealed.

It has been seen, that so much of the President's speech as related to Finance was from the pen of Hamilton; and that it adverted to three topics—the settlement of accounts between the United States and the individual States, which was shown in a report of the Commissioners charged with it;—the provision of auxiliary means for the regular redemption and discharge of the public debt, the state of which was given in a Report of the Commissioners of the Sinking fund;—and an estimate of the appropriations necessary for the current service.

A Report embracing this estimate was submitted to Congress by the Secretary of the Treasury.

On the consideration of this Report, the allowances for compensation to the Loan officers were objected to, and the Secretary was ordered to give an explanatory statement. This was given, but, nevertheless, repeated

inquiries were put, by Baldwin—why, the allowances for contingencies and other purposes exceeded those of former years? To meet these inquiries, a select Committee, composed of members of the opposition, was appointed, which reported that no variations ought to be made from the official estimate. A bill conforming to it was reported, and after its several sections had been discussed, it was moved to add a provision authorizing a Loan, in anticipation of the Revenue.

This proposal was objected to by Madison, on the ground, that it involved a consideration of ways and means, and ought to be kept distinct from that of appropriations; that they were essentially separated by the Constitution. He inquired, whether the proposed Loan was not to be secured by the payment of five per cent. interest; and whether a tax would not be necessary to pay that interest.

In reply, it was observed, that these objects were inseparable,—that there was no use in making appropriations, without money to pay them. The object of the present Loan was a mere anticipation of the Revenue. The surplus Revenue amounted to nearly two millions.—The Treasury did not contain more than five hundred thousand dollars. As the Government gave credit on importations, an anticipation of the Revenue was necessary; and it was dangerous to hazard the Treasury being empty.

Giles observed, in reply, that a Loan was improper till the state of the Treasury was known, and for this reason the subject was postponed. A Report, as to the money in the Treasury,* was made in answer to an order of the House; which showed a deficiency to the first of April,

* $621,294.

between the probable demands and the available funds; and that a greater deficiency was to be expected in the following quarter of the year;—that the only Domestic Loans were two, made in pursuance of law, from the Bank of the United States, the reimbursements of which left an unpaid balance of five hundred thousand dollars, bearing an interest of five per cent.;—on the last of which Loans a final instalment would fall due on the first of the ensuing March.

The opposition, insisting upon separating the provision for a Loan from the appropriation bill, the proposed amendment to it was expunged;* and a Committee was appointed to ascertain "whether any and what sum was necessary to be loaned for the service of the coming year."

As Chairman of the Committee, Sedgewick addressed a letter to the Secretary of the Treasury, to ascertain the practice of that Department as to the Revenue collected and deposited in the Banks;—when it was to be deemed in the Treasury;—whether there was any such deposit capable of being drawn into the Treasury; and if there was any, whether the probable amount was such as to render a present provision for a Loan inexpedient or unnecessary. A full reply† was made to these inquiries, showing the only two instances in which the public moneys might be considered as having been deposited in Bank, without passing, in the first instance, into the account of the Treasurer.—One was, the proceeds of foreign bills sold for the Government and received by the Bank, the accounts of which were closed—the other, a sum of two hundred thousand dollars, being the only sum then so deposited, part of the last loan from the Bank, left as an off-

* Feb. 21. † Feb. 25.

set against the second instalment about to become due. The effect of which last operation was shown to be, the extinguishment of an interest of six per cent. from the commencement of the year on the instalment of the Loan, by an interest of five per cent. payable to the Bank upon the sum borrowed of itself, and left in money.

Thus vigilant was the practice of that day as to every mean of reducing the public charges.

This reply further showed, that the proceeds of the accruing revenues were the only sources of supply; and, that without a loan to meet the deficit in the receipts compared with the current expenditures, a failure in the public payments was inevitable.

A law was passed, after some remarks of Giles impugning the conduct of the Treasury Department which were satisfactorily answered,* empowering the President to negotiate a Loan of One Million, if he should think the public service required it.

If no public benefit resulted from the obstacles interposed by the opposition, they had the effect of conferring on that party, the advantage of apparent vigilance, and of leaving the implication that such vigilance was necessary.

The auxiliary provisions for the Revenue, were the remaining subjects of Financial deliberation.

* Giles said, that the contract contemplated by the act incorporating the Bank was dated in June or July, but had been made to have a retrospective effect; and that a question had been made, whether the instalments due to the Bank fell due to it at the time of its commencing operations, or when the Contract was executed. This statement was admitted to be correct; and it was shown, that, though the Government paid six per cent. on its subscription, it received, in the dividends, a sum so much larger as to show a clear balance in favor of the United States; and that a debt of six per cent. due by them was exchanged for one bearing an interest of five per cent.

It has been seen, that the reputation acquired by Hamilton, as the author of the Fiscal policy of this Country, had excited the envy of his adversaries;—that the influence this reputation gave him over the action of the House had been earnestly deprecated; and that their party had carried into effect their determination to exclude him from all authorized participation in its direction.

With this view, in the provision of resources to meet the expenditures for a naval armament, the task of reporting the ways and means had, by a majority of two votes, been delegated to a Committee.

The duties proposed by this Committee were one per cent. additional, on all imported goods then paying seven and an half per cent.; five per cent. additional on stone, marble, and on all stone and earthen ware, three cents per bushel additional on salt; six cents per ton on all vessels of the United States employed in its foreign trade, and twenty-five cents additional per ton on all other vessels.

The policy of this Nation had been from the outset to foster its manufactures by duties on imported articles, rather than by direct bounties. This was, to a certain extent, conformable to the views of the Secretary of the Treasury, as shown in his Report, on Manufactures. But, as has been previously seen, while the advantages of protection were urged by him, it was ever a part of his system, that such protection should be gradual in its operation; and aware of the evils which would result from diverting industry suddenly from its existing channels, that he had always been adverse to heavy duties.

With this view, in providing additional supplies for the year seventeen hundred and ninety-two, the increase of two and an half per cent. on imports then rated at five per cent. ad valorem, was reluctantly made; and, though

he pronounced it "not an excessive augmentation," yet he proposed it should be only temporary, to expire when "the expenses of the Indian War shall have been defrayed."

The scheme of the Committee of Ways and Means departed from these views in the proposed addition of one per cent. on the articles rated at seven and an half per cent., —in the additional duty on salt, and in the augmented duty on tonnage.

Hamilton's policy carefully distinguished between articles of which the poor were consumers, which there was no motive to tax for the purpose of encouraging manufactures; and those, which an additional, but moderate duty, would ultimately render cheaper; and mere luxuries.

In discussing this subject, Dayton remarked, that no member could be ignorant, that the articles falling under the description of those subjected to a duty of seven and an half per cent. were, for the most part, purchased and used by the poorer class of people, who were less able to bear additional burthens than any other; that very many, and some of the most important of them, were mere necessaries,—could not be furnished by this Country, but must for a long time be imported.*

From this consideration, he suggested, instead of one per cent. additional duty, a reduction of the duty to one-half per cent.; and to supply the deficiency, he moved a substitute, embracing the several articles subjected in Hamilton's Report of seventeen hundred and ninety-two, to an ad valorem duty, adding a few others.

"This substitute," he hoped, "would be accepted, though a naval armament should not be created, as rendering the means of raising revenue, as little burthensome, and as unexceptionable as possible.

* Coarse woollens, &c.

"As far as the encouragement of our own manufactures could be made to consist with the increase of Revenue, it was certainly desirable to effect it; and it was with a view to both those important objects that he selected the articles he had enumerated. It was not a question, whether more money should be raised, this had been determined; but whether the increase of duties should fall upon the necessaries of life, or upon articles of luxury and such other articles as the United States were capable of supplying within themselves, independently of foreign countries."

After some discussion on the propriety of affording protection and encouragement to Iron and Iron manufactures, the substitute, with the exception of a few articles, was agreed to.

A motion to strike out the additional duty on salt also prevailed, conforming in this particular to the suggestion of the Secretary of the Treasury "that the rate of duty should remain as it was;" the bushel, in order to an equalizing effect, to be defined by weight. An increased tonnage duty of six cents on American and twenty-five cents per ton on all other vessels, as proposed in the Report of the Committee, was retained.

This bill was not finally acted upon, but, on the twenty-sixth of March, a Committee of ten members, each from a different State, was (on motion of Smith of South Carolina) appointed to inquire, whether any, and what further or other Revenues were necessary; and, if necessary, to report the ways and means.

From this Report it appeared, that taking the estimate of Revenue by Hamilton, there would be a deficiency of nearly two millions four hundred thousand dollars,* al-

* Revenue, $5,318,584 19. Appropriations, $7,694,217 98.

lowing for the diminished product of the Impost; and adding to the expenditure of the Government, the provision he had estimated should be made for the increased military establishment.

To raise this sum, additional imposts were proposed, a specific tax on boots and shoes, and an ad valorem duty on the several articles enumerated in Dayton's proposition—with an increased tonnage duty of one-tenth per cent. on goods, if imported in foreign bottoms—a carriage tax—a tax on stamps—on sales at auction—on manufactured snuff and tobacco—on refined sugars—on licences for retailing wines and spirits, and a direct tax.*

The Report proposing these several duties underwent a long discussion in Committee, during which some of its features were essentially altered.

In the clause levying the stamp duties, an amendment was inserted, charging a tax of five cents per hundred dollars on all *transfers of the stock* of the United States, or of the Bank of the United States, or of any Individual State. This amendment was opposed, but was retained by a party vote of fifty-three members. The clause establishing a land or direct tax was expunged.

With a view to induce an entire abandonment of the Internal taxes, efforts were made to extend the proposed Excise to several articles then chiefly used in the Eastern and Middle States, which failed.

The opposition to the new taxes was renewed, when the Report was brought before the House.

* Madison to Jefferson, Ap. 14, 1794. "The Committee of ways and means was unfortunately composed of a majority infected by the fiscal errors which threaten so ignominious and vexatious a system to our country. A land tax will be reported; but along with it excises on articles imported and manufactured at home—a stamp tax pervading almost all the transactions of life, and a tax on carriages as an indirect tax."

The tax on pleasure carriages met with much hostility. The objection raised to this tax was by Madison. He questioned its constitutionality;* said, that it was in fact a *direct* tax, and therefore should be *apportioned* among the States according to their *representation*. This view was controverted. Being luxuries they ought to be taxed. The inequality if apportioned, was shown by the comparative bearing on Maryland and Connecticut, States nearly of equal population. In the latter, so simple were the habits, only two persons at that time employed pleasure carriages. The clause was retained.

This was followed by a motion on the part of Nicholas, to strike out all the stamp duties, which failed by a large vote.

A division was also called on a proposition which was renewed, in order to defeat the establishment of internal duties, by a motion to strike out the tax upon snuff.† It did not succeed.

The debate on these various propositions was conducted with great vehemence. The hostility of the people to new burthens had been too frequently evinced, and too much cherished by the opponents of the fiscal system, not to be eagerly resorted to as a mean of inducing dissatisfaction with the Government.

On the first annunciation of the intended tax on snuff and refined sugar, a violent appeal was made. The hardship was urged of requiring the manufacturers of these articles to keep accounts of the proceeds of their labor—the danger of perjury—the oppression of imposing a duty which would amount to double the price of the raw mate-

* Madison to Edm. Randolph. "Quære—Is not a tax on horses a *direct tax*, and therefore unconstitutional in the sum proposed?"

† Against the bill, were, *Findley*, *Giles*, Macon, *Madison* and 27 other members. For it, Ames, Boudinot, Dexter, Goodhue and 48 others.

rial. The partial operation of the duty on snuffs was also objected to as falling chiefly upon the States of Maryland and Virginia. It was pronounced equally exceptionable with the tax on distilleries.

The discussion was extended from its immediate subject to a general denunciation of this mode of taxation. It was reprobated, as an attempt, by gradual steps, to enter upon the private occupations of individuals, and to subject the whole internal industry of the Country to the vexatious interposition of the Government. The inconsistency was alleged of protecting duties to encourage infant manufactures, being followed by duties which would crush them. It would intimidate individuals from employing their capital, and thus exposing it to be taxed, the moment it became profitable. The precedent was dangerous. It was an opening wedge, and ought to be resisted in the outset. Instead of this insensible taxation, so dangerous in its consequences, the House was urged to resort to a land tax, which the people *would* feel.

In reply, the partial bearing of the duty on manufactured tobacco was denied. That it had previously been protected, instead of being an objection, was assigned as a reason, now that the manufacture was established, of calling on it to contribute to the public burthens. The use of tobacco was a luxury. All who used it were volunteers to pay the duty. A tax on land was, on the contrary, unavoidably unequal. It bore upon all the necessaries of life, and was oppressive to the laborious poor. That the tax would be insensible was pronounced one of its chief recommendations; as the burthen was so small that it would not be felt. The objection ran into the absurdity, that the most inconvenient *tax* was the best, because it would be more *felt*. Was it the object of the opponents of these taxes to render the people dissatisfied

with their Government? It is said, that Excises are against the spirit of a Republic. It is strange that the letter and the spirit of the Government should be so contradictory—for, by the Constitution, excises are expressly provided. The dangers of an excise to American liberty were derided. "Connecticut is a land of equality beyond any on earth. Scarcely a man among them is rich enough to ride in a coach, and scarcely one so poor as not to keep a horse. Learning is more equally diffused there than in any part of America. Their morals are so pure that crimes hardly have names, yet this happy race of equal Republicans never, since the institution of the Government, have sent one member here to whine, or to thunder about the aristocracy of the Constitution.

"The character of individuals forms the character of the Government. A people are never enslaved until they need a master.—If we are to have the benefits of Government, we must pay for them. When laboring under the debility of disunion, and the distresses of anarchy, we rejoiced that the people had instituted this Government. It is now represented, not as the guardian of liberty and innocence, but as the assassin of both. What has happened to change our opinion? Under its auspices, we have increased in strength and riches—we are free and happy, while the world is in confusion."

The opponents of these taxes were asked to explain the inconsistency of their conduct. "The large surplus in the Treasury was a most satisfactory evidence of the growing productiveness of the Revenues in times of tranquillity, and taught the importance of cherishing these blessings—but the appropriations already made showed a large deficiency to be supplied. They refuse to grant the necessary supplies. They advocate a sequestration of debts—a prohibition of intercourse—sanction every meas-

ure to induce a war,—oppose every measure to remove the obstacles to peace—advise restrictions on commerce —the sources of Revenue, as a means of increasing them, and propose at the same moment an augmented impost. Was it not surprising, that those who a few days since predicted war, whereby the revenue from Imports would be annihilated, should rely on a continuance of that Revenue, should expect further aid from it—should, while they urge a suspension of commercial intercourse, look to it as the *only* source of revenue?

"Commerce was sufficiently burthened. It is as unjust as it is impolitic, to add to that burthen. The opposition would render better service to their country by discovering such revenues as would enable the nation to face its difficulties, than by embarrassing them with objections, which were equally applicable to almost every species of imposition.

"The most specious objection was, the tendency of the Excise to check the progress of the infant manufactures of the country. Viewed, as a general objection to taxes on Domestic manufactures, or as respected the particular articles proposed to be charged, the objection was equally untenable. The doctrine, that such manufactures were unfit sources of revenue, might deprive the nation of all its indirect revenue;—leave no other resource but a land tax, which was, in a measure, liable to the same objection, as that would also operate as a tax on domestic manufactures.

"The effect of an impost, by its protection, is to foster and substitute home for foreign manufactures. The income from duties on the imports ceases with the cessation of those imports. It is to be supplied. Whence can that supply be derived but from a tax on land, or on domestic manufactures? The fitness of an internal tax was

strongly exemplified as to the articles originally designated by the Secretary of the Treasury. Loaf sugar and snuff were charged so high in the Revenue Act as to encourage their home manufacture. They had ceased to be imported, except in inconsiderable quantities. The revenue from them thus also ceased; but it had been pledged for the support of the Government, and of the public credit. How could this pledge be fulfilled or deficiency supplied more fitly, than by charging the articles thus fostered into maturity by protecting duties, which duties that maturity had annihilated?

"They had ceased to be Infant Manufactures; they had grown by protection so much as not only to supply the United States, but furnished a surplus for exportation. Were the prosperous manufactures to be exempt from a tax, and other branches of industry to assume their part of the burthen?"

These considerations had little weight in the minds of the interested and the perverse. Public meetings were held and memorials were addressed to Congress;—some of them, in a tone which induced their immediate rejection.

Among other comments of this period, it was charged upon the opponents of these taxes, that they had uniformly opposed every grant of revenue; and thus waged war upon the finances of the Country; and, at the same time, professed to be friends of public credit; that they had sanctioned appropriations called for by public feeling, and refused the means of meeting them. Commerce they said at times was taxed as much as it would bear. Its continuance was in jeopardy, it was therefore an uncertain resource. Land was the proper object of State taxation, but the National Government, enjoying so many other sources of income, and *that* on *Imports* exclusively,

ought not to claim from the States this last *dependence*. *Luxuries* and *Superfluities* were the proper objects of taxation. Snuff and refined sugar were admitted to be *luxuries*, but an *excise* ought not to be resorted to.—It is a tax on domestic manufactures.—Thus excluding revenue from land, commerce and internal duties, how was the Government to perform its offices, or to pay the debt? By further Loans. But, if excises were odious, how much more so were Loans. These could not be had without a funding system. Without a funding system there would be no redemption of the Loans. Who under such circumstances would lend? Yet funding systems were the great means of corruption!!*

At the close of the debate upon the increase of Revenue a proposition was made evincing a persevering purpose to wage a commercial warfare with Great Britain. It was proposed to add an additional tonnage duty of six cents on American vessels, and to raise that on foreign vessels, by a duty of fifty cents. The former failed, the latter succeeded. In the last stage of the debate, it was moved, that the increased tonnage duty on foreign vessels should be twenty-five cents; British excepted, and that, on British ships or vessels it should be "fifty cents per ton." This motion was negatived by a large majority.†

* "The combat against excises on tobacco," Ames writes, "terminated favorably. Madison spouted against *excise*," (see his previous views infra, iv. 61,) "and in favor of land tax, hoping to prevent any thing, or to get only that voted which would raise enemies to the Government." Taylor of Virginia, says to King—'You are strange fellows: Formerly you did what you chose with a small majority; now, we have a great majority, and can do nothing. You have baffled every one of our plans.' I wish he may prove a prophet. The resistance to wild projects has risen in its spirit and style, as hope declined. * * Taylor said, also, that, though a minority, we had carried and were carrying all our measures, frigates, taxes, negotiations, &c."—Ames, i. 142.

† For it were *Findley*, *Giles*, *Madison* and 21 members. Against it, Boudinot, Goodhue, Sedgewick, Swift, Wadsworth, and 51 other members.

During this period new causes for apprehending hostilities had arisen. Simcoe, the British Governor of Canada, had taken a commanding position within the American territory. The correspondence with Spain assumed, on the part of her agent, a tone of insult and defiance ;—and the administration were expecting intelligence, that, stimulated by her influence, the settlements on the South Western frontier were doomed again to be broken up by Indian wars.

Yet these strong motives to provide means for the defence of the National territory seemed not to have checked the opposition.

Successive motions were offered in the Senate, each of them to defeat the acts for levying Internal Duties. These having failed, an exertion was made to retain the clause increasing the discriminations * between foreign and domestic tonnage, which had been introduced by the other House into the act levying additional duties on Imports.

The Senate expunged those parts of this act which proposed an increase of the tonnage duties. An addition of two and an half per cent. on articles previously paying seven and an half per cent. if imported in American bottoms, was assented to. The ad valorem duties on the several enumerated articles were raised five per cent.,

* "Col. Monroe did indeed move to insert among the new ways and means an additional duty of ten per cent. on British Manufactures, but the symptoms of desertion soon induced him to withdraw it. A member from North Carolina afterwards was incautious enough to try a discriminating duty on British tonnage, and by pushing it to a question with the yeas and nays placed us in a very feeble minority. Notwithstanding this effect of the Executive measure, there is little serious confidence in its efficacy, and as involving the appointment of Jay is the most powerful blow ever suffered by the popularity of the President." * * * "The embargo is still in force."—Madison to Jefferson, May 11, 1794.

with an addition of ten per cent., as originally proposed by Hamilton, on such articles, if imported in foreign bottoms.

The results of the Legislation to create additional supplies were, besides the bill augmenting the Customs, an act levying duties upon snuff and refined sugar;—another, "on property sold at auction;" another on Licenses for the sale of "wines and foreign distilled spirituous liquors by retail;" and an act, levying "duties upon carriages for the conveyance of persons." Of these several statutes, the first imposed upon sundry enumerated articles, on their importation from foreign countries, certain specific and ad valorem rates of duty, in addition to those before charged upon them; and added generally a duty of two and an half per centum on all that class of articles before chargeable with seven and a half per centum ad valorem. It also prolonged the temporary two and an half per centum laid by the act of May second, ninety-two, till ninety-seven, to which period the other duties laid by it were to continue. It contained no appropriation.

The snuff and sugar act laid a duty of eight cents per pound on all snuff, which, after the thirtieth of September ninety-four, should be manufactured within the United States, and of two cents per pound on all sugar, which, after that day, should be refined within the United States. The act laying duties on sales at auction imposed a duty of one-quarter per cent. of the purchase money arising from the sale of any right, interest or estate, in lands, tenements or hereditaments, utensils in husbandry, farming stock or ships and vessels; and of one-half per cent. of the purchase money, arising from the sales of any other goods, chattels, rights or credits, such sales being by persons licensed according to the laws of the State or by this act, prohibiting others from selling at auction.

The "Act laying duties on licenses for selling wines, and foreign distilled and spirituous liquors by retail" required that every retail dealer in wines, and every retailer in foreign distilled spirituous liquors, should each take out a yearly license and each pay for it a duty of five dollars.* The character of each of these respective retail dealers was defined by this act.

The CARRIAGE TAX act laid different rates of duty, from one dollar up to ten dollars, upon carriages for the *conveyance of persons*, kept by or for any person, for his or her own use, or to be let to hire, or for the conveying of passengers; and to guard against misapprehensions, declared, that the duties should *not be construed* to extend to any carriage actually and chiefly employed in husbandry, or for the transporting or carrying of goods, wares, merchandise, produce, or commodities.

The duration of these four acts laying internal duties was each limited to the end of the Session of Congress, next after the expiration of two years from the time of passing each act. Neither of them contained any appropriation.

An Act was also passed to establish the Post Office and post roads within the United States. It established various rates of postage on letters, and directed a quarterly account to be rendered to the Treasury Department of receipts and expenditures by the POST MASTER, who was to pay into the Treasury, quarterly, the balance in his hands.

By an act passed at this session, the aggregate of certain specific sums was charged upon the proceeds of the revenues created by these last five mentioned acts; and a reservation was made out of them of a sum sufficient to pay the interest of whatever moneys should be borrowed, in pursuance of a recent law "making further provision

for the expenses attending the intercourse of the United States with foreign nations"—which sum was pledged for the payment of that interest. These acts, with those previously mentioned, comprehended all the current revenues of the United States created during Hamilton's administration of the finances.*

It has been perceived, that the opposition had by a direct vote refused to refer the consideration of the provision of the supplies for the public service to the Secretary of the Treasury. They nevertheless made every effort to turn upon him the discontents they had stimulated and inflamed. He was publicly charged with being the author of the report presented by the Committee of Ways and Means; and assailed for the inconsistency of having created "a city of Manufacturers on the wide borders of the Passaick," and proposing an Excise which would prostrate the domestic industry of the Country! This charge was soon after publicly denied; and it was stated, that he had made "*no suggestion*† on the subject of the ways and means, but confined himself to giving information on one or two points of fact, which collaterally arose."

A comparison of this Report with Hamilton's previous suggestions confirms this statement.

The articles on which, carrying out the system of protection he had urged in his Report on Manufactures, he contemplated an increase of duties, were selected by the Committee as the most fit objects of taxation, but the principle which had governed him in fixing ad valorem

* Hamilton's Works, iii. 463.

† Madison to Jefferson. May 11, 1794. "The Report of the Committee (on the new taxes) which was the work of a Sub-committee *in understanding with the Fiscal Department* was filled with a variety of items, copied as usual from the British revenue laws."

rates of duty was departed from; no distinction being made between those of which the United States would soon be enabled to furnish a supply, and such as must necessarily continue to be of foreign production. The increased impost on articles of primary necessity was not only in direct contravention of his opinion, that the burthen of the taxes should be charged, as far as practicable, on luxuries, and articles chiefly consumed by the rich; but was held by him unwise, inasmuch as it substituted considerations of temporary expediency for the stability essential to a beneficial commerce.

A direct tax, he would have postponed to a period of still greater emergency.

The discriminating tonnage duty established in seventeen hundred and eighty-nine, had effected, even more rapidly than could have been anticipated, its intended object. A further increase, it has been shown, he feared would induce countervailing measures. The substitution of an additional duty of ten per cent. on imports in foreign vessels was in conformity with his opinion, that it would neither impair the commercial policy of the regulation which had established a discount of ten per cent. in favor of imports in American vessels, nor make an inconvenient addition to the general rates.

But the proposition which, more than any other, violated his views of sound policy was the amendment to the act levying stamp duties, taxing transfers on the stocks of the United States and of the banks.

The determination of the opposition to retain this provision in the Stamp act, left no other course, than either to admit this feature into the bill or to reject the law. It was so obnoxious, that, acting under his advice, a few of the leading friends of the administration, joined

in their vote with the opposition, and the whole bill was defeated.* †

This contemplated invasion of Public Credit called forth from Hamilton an elaborate discussion of the question, whether the Government of the United States had a right to tax its own funds, which he denied, as being a breach of the public faith.

The other subjects connected with the Finances were acted upon near the end of the Session. Of these, one, was a bill to pay the second instalment due on a Loan, made in pursuance of an Act of Congress, from the Bank of the United States.

This did not involve any question of policy or of expediency. It was a simple inquiry, whether the Nation should pay a debt, when due, in pursuance of its engagements; yet the fact that the Bank was the Creditor was supposed to vary the obligation, and the bill was not permitted to pass without much opposition.

But the Fiscal measure, which most roused the violence of party, was an act making provision for the payment of the interest on the balances due to certain States,

* "This tax on transfers of funded Stock," Ames wrote, "distresses Hamilton exceedingly, and well it may. I used my endeavors to show, that a free transfer was a part of the terms," * * "that a right claimed and exercised to draw back *ad libitum*, annihilates the debt, which exists in confidence." Ames, i. 141.

† Instead of being ascribed, as the fact was, to this motive, the defeat of this attempted violation of a cardinal maxim of public credit was adduced as evidence of "the opinion of the most zealous patrons of new ways and means" that "the occasion, critical as they pressed it, did not ultimately justify all the taxes proposed." "It appears, in particular, that a bill imposing a variety of duties, mostly in the nature of stamp duties, into which, a duty *on transfer of stock* had been inserted as an amendment, was in the last stage, defeated, by those, who had in general urged the new taxes and this very bill itself in the earlier stages of it." *Madison's* Political Observations, p. 24.

upon a final settlement of the accounts between the United States and the Individual States.

Whatever doubts might have originally existed as to the policy of assuming the Debts of the Individual States, this, it would be supposed, could not any longer be deemed an open question.

The Assumption had been made. Every act providing for the Debt had been passed under the expectation that this class of Debts would also be paid. Commissioners had been appointed, vested with absolute discretion to adjust these debts. These Commissioners had reported. No intimation had been given, that they had either betrayed or exceeded their powers. All that remained for the Government was, the performance of its pledge. Yet opposition was made in both branches of the legislature.

In the Senate, it assumed the form of a motion for a Committee to report on the practicability of obtaining statements of the principles on which these accounts were settled, and of the credits allowed.

This motion, which had it prevailed, would have resulted in an interminable controversy btween the States, was sustained by only six votes.*

In the House, a Resolution that the Committee to which this bill had been referred should report, passed by only two votes, after an earnest debate led by Findley and Smilie.

A motion, that the balances reported by the Commissioners and carried to the debit of certain States be relinquished, was defeated.

Nicholas, then proposed, that the payment of the interest on these balances should cease after the year Sev-

* Edwards and Hawkins, N. C.—Martin and Potts, Kentucky.—Monroe and Taylor, Va.—A similar motion was made in the H. of R.—39 members voting in favor of it.

enteen hundred and ninety-eight; and, that then, the balances due from certain States,—balances which it would be impossible to collect—should be applied to pay the Creditor States. This was pronounced, as being in fact, a proposition to prevent the debt ever being paid; and the opponents of this measure were called upon to avow, whether they intended to violate a public contract.* The bill ultimately passed after an attempt to postpone its third reading beyond the term of Congress. Similar efforts to defeat it were made in the Senate, but did not prevail.

This persevering opposition to the laws providing Revenue, was the more remarkable, at a moment when a resort to war, in defence of the interests and honor of the Nation, might be unavoidable; and when there was every inducement to inspire confidence in the fidelity of the Government to its engagements.

A different temper was manifested in relation to the French debt.

Fauchet, the successor of Genet, applied for a further payment on account of that debt, under the plea, that it was to be employed so as to enable the emigrants of St. Domingo to return to France. The belief that the previous advances to France had been used in preparing a hostile expedition within the United States, against Spain; and in keeping in pay a large corps of dependents upon the French Minister, ready at any moment to prompt any measures he might suggest, was alone sufficient to inspire caution; but a more weighty consideration also interposed to prohibit a compliance with the request of France. This was, the effect, that a voluntary payment to her ene-

* Against this proposal, there were 60 votes—in favor of it 27,—among the latter the Journals show the names of Findley—Giles—Smilie—Madison.

my by the American Administration, at a moment when their own finances required the utmost circumspection, connected with the numerous demonstrations of partiality to that Power, might have on the proposed negotiations with Great Britain.

This application was referred by the President to the Secretary of the Treasury, who submitted to him a certificate showing the instalments which would fall due, and the epochs at which they would be payable within the current year, if there was no anticipation.

A Cabinet Council was held; and it was unanimously agreed, that he should be supplied with the instalments falling due in September and November following, as Hamilton had reported. A verbal statement to Fauchet, was also advised, "that notwithstanding the desire of the President to accommodate his request, the situation of the United States would not permit them to go farther."

Thus anxious to adopt a course which might at the same time avoid any unpleasant consequences, and to evince a spirit dictated by the circumstances under which that debt originated, Fauchet was informed by Hamilton, that no deductions would be made to meet the previous anticipations; but that his drafts on account of these instalments would be accepted, payable at the epochs of their becoming due. He also apprised him of the decision not "to go farther."

This determination gave great dissatisfaction to the French Ambassador, who wrote to the Government expressing "the chagrin with which he observed the positions it contained." Randolph had proposed, if Fauchet did not relinquish his application, that it be forwarded to Congress.

A message, covering this correspondence, was sent in by the President, and referred to a Committee of the

House, who reported in favor of the advance asked by Fauchet being granted; and the Secretary of the Treasury was directed to report the state of the Loans he had negotiated in Europe, and the purposes to which, they had been appropriated.

His Report of the following day showed, that a Loan of three millions of florins had been authorized, about one-half of which had been with difficulty obtained, and that this Loan "pursuant to instructions from the President was specifically appropriated to the purchase of the Public debt."

The House resolved, that the proceeds of the Loan should be applied by the President toward the discharge of the remaining debt to France, or to the protection and defence of the United States, if he should deem it necessary, without regard to the previous appropriation.

A bill was reported by Madison to that effect. It was opposed, but it passed the House of Representatives by a full vote of the Democratic party.

The Committee of the Senate, to whom it was referred, reported a state of the account with France. It there appeared, that large anticipations had been made; and, adding the instalments proposed to be anticipated, which, for the convenience of the French Minister, the Bank of the United States were willing to advance, when called for;—that the payments made, and agreed to be made, exceeded the amount to which by contract France was entitled; that, from this consideration, and the fact that the Loan proposed to be applied to its payment was specifically appropriated to the Public debt, it was not advisable to divert it from its original destination.

This Report was adopted, and the bill was rejected.

The propriety of this decision is sustained by the statements contained in a message from the President to Con-

gress, showing the efforts made by France to involve the United States in a war with Spain by means of two expeditions, one from Georgia, the other from Kentucky, destined against the territories on the Mississippi.

The details of these hostile proceedings, which have been previously referred to, show that every power that had been vested in the Executive had been exerted to suppress them. The obstacles to the performance of this duty had been seriously felt by the President, and he deemed it incumbent upon him to represent to the Legislature the inadequacy of his means to the high exigencies to be met.

The communication from the Head of the Government, that these hostile projects had been "revived upon principles, which set public order at defiance and placed the peace of the United States in the discretion of unauthorized individuals," might have been deemed a sufficient ground to act upon his recommendation of a more vigorous legislation. But such considerations had little weight with the opposition, whose leader, Jefferson, had been made by Genet, privy and instrumental to these enterprises.

The bill from the Senate for the punishment of certain crimes was brought before the House. Its consideration, urgent as were the motives to it, was there also strenuously opposed, the leading members of the opposition acting in concert.* A motion of Nicholas to *expunge*

* Giles—Madison—Smilie—Parker: Yet it will not escape remark, that Madison in the year 1784, as a member of the legislature of Virginia, was a warm advocate for a bill punishing offences by the citizens of that State, committed against the laws and within the jurisdiction of a foreign power. "Journal of House of Delegates of Virginia." Madison wrote Jefferson Jan. 9, 1785: "This measure was suggested by the danger of our being speedily embroiled with the nations contiguous to the United States—particularly the

the section which rendered punishable the acceptance of a commission from a foreign power within the United States, to serve against a nation then in amity with them, at first *prevailed;* but after much debate this section was reinstated. An unsuccessful effort was also made by the same individual, to strike out that provision of the bill which proposed to punish an American citizen for enlisting in a foreign service, within the United States, or for going out of them, for the purpose of enlisting in such service against a friendly power.

The clause prohibiting the sale of prizes within the United States was expunged. This clause was opposed by Madison,* who remarked, that no complaint had been made by the British Government to our Envoy on this subject, and declared that the sale of prizes within the American ports "would have no tendency to violate our neutrality."

He was answered by Goodhue, who observed, "if by the Treaty with France she had a right to enjoy this privilege it was not a subject for discussion. If she had no right, then it was well to consider how far it was a violation of neutrality. That she had no such right, he contended, was shown by the correspondence of the Department of State, and by her own construction of the Treaty, as evinced in subsequent acts. Though the

Spaniards,—by the licentious and predatory spirit of some of our Western people."

* "The bill for punishing certain crimes," Madison wrote to Jefferson, June 1, 1794, "including that of selling prizes has been unexpectedly called up at the last moment of the session. It is pretended, that our citizens will arm under French colors, if not restrained. You will be at no loss for the real motive, especially as explained by the circumstances of the present crisis." Jefferson is seen in his instructions for a Treaty with Spain, in conformity with Hamilton's suggestion, pronouncing the right to sell prizes "*a very dangerous covenant never to be repeated.*"

British Government had not complained to the American Envoy at London, that was no ground for the inference, (of Madison,) because her Minister resident in the United States had protested against it. There was just reason to apprehend that Great Britain would make this a countercharge to any redress we might claim for her spoliations on our commerce.

"He felt pain to see so many efforts made to deprive the Executive and the Judiciary of powers so necessary to be vested in them to preserve the tranquillity of the Country."

Were the question doubtful, after the embarrassments already felt by the Government on this subject, it is difficult to devise any adequate justification for the course of the opposition. Under whichever article of the Treaty this right was claimed, it had been conclusively shown, that it did not exist. It was not founded on any practice of France.

Had it been stipulated in the Treaty with her, the acts of France had rendered it void. By the treaty of Utrecht confirmed by the subsequent treaty of Paris, she had bound herself to Great Britain not to permit the sale of prizes in her own ports. Thus, in case of a war between the United States and Great Britain, she was bound to have prohibited such sales there by the citizens of the United States. But the treaty of seventeen hundred and seventy-eight, was a treaty of reciprocity; and France being thus restrained, had it contained any such stipulation, it was null,—because at variance with her prior engagement on this subject.

A stipulation similar to those in the Treaties of Utrecht and Paris, was to be found in that of seventeen hundred and eighty-six, contracted by her with Great Britain,

thereby giving the strongest evidence of the interpretation of France on this point.

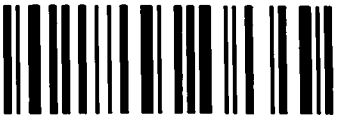
An effort had been made to sustain this right, on the ground that it was reserved to Holland in the Convention of the United States with that Power; and that France, being entitled to the privileges of the "most favored nation," thus participated in the right. But, apart from the fact, that this Convention was a special agreement relating to the then existing war and merely temporary, its language entirely excludes the attempted inference. This right is there declared, to be granted as far as was consistent with the Treaty with France, but that treaty expressly prohibited the Dutch from exercising the right; and thus France could not enjoy it as a favor common to another nation to whom she expressly prohibited it. The privileges of the "most favored nation" were to be enjoyed mutually by France and by the United States, on allowing the same compensation, if the concession was upon condition. But, France had, by repeated treaties, deprived herself of the right of granting such a compensation, and therefore, if Holland still possessed the privilege, could not entitle herself to it. That such a right should still be supported by her partisans in the United States was the more surprising, inasmuch as France had herself abandoned it, recalling the Minister who had claimed it—instructing his successor to express her approbation of the conduct of the Executive, and to revoke all the commissions to Privateers which had been illegally issued.

On what ground it should have been contended by Madison, that such a practice "could have no tendency to violate our neutrality"—it is difficult to conjecture. The fact that such a privilege was convenient to France and prejudicial to her enemies, was in itself, an answer to the

assertion. The obligation by treaty to refuse it to Great Britain did not leave the option to grant it to France. She had, not only by express compact, but by her municipal laws, forbidden it. The permission of such a favor was also inconsistent with the duties of the United States to Spain, and to Holland. To both these nations, they owed obligations. With the latter, they were in treaty, yet was it proposed to permit the exercise of a favor which would have inflicted an injury on both, they being parties to the war!

Considerations of this kind were pressed with much force. The difficulty of replying to them was increased by frequent reference to the letter from Jefferson to Morris, to which, though averse to its policy, he had been compelled to give his signature.

This refusal of the National legislature to grant the power of prohibiting the sale of prizes was seriously regretted by Hamilton, who observed, that the "United States had lost ground in not being able to give as strong proofs of neutrality as they previously had given."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